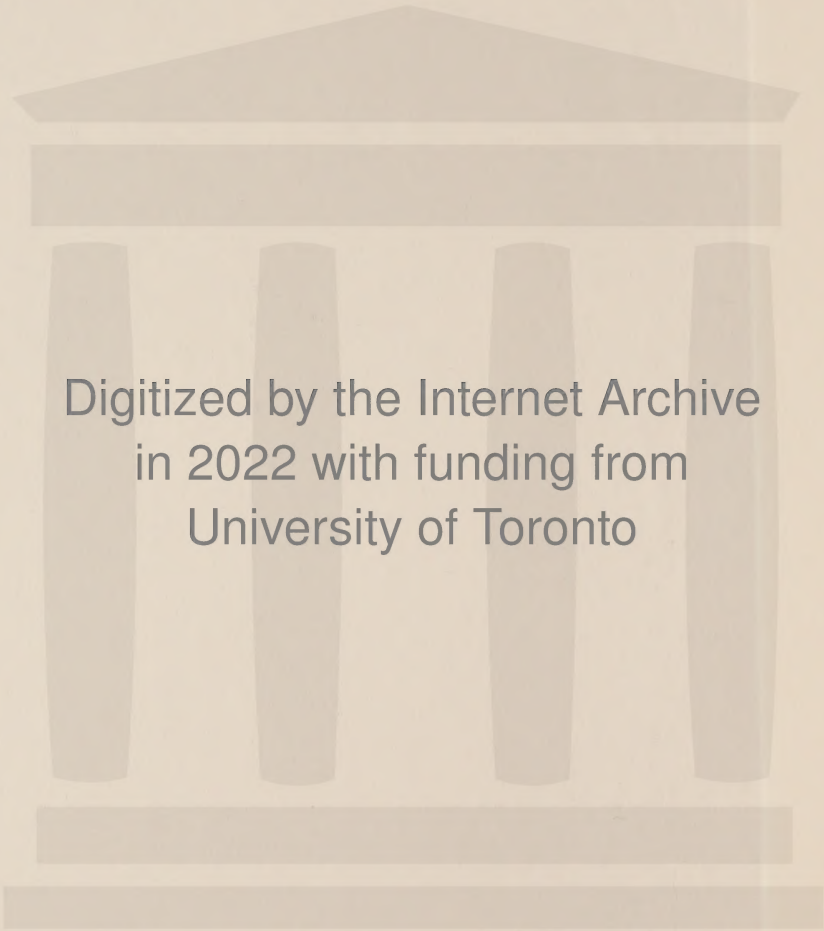

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Tuesday 4 June 2002

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Mardi 4 juin 2002

Standing committee on justice and social policy

Rescuing Children from Sexual Exploitation Act, 2002

Comité permanent de la justice et des affaires sociales

Loi de 2002 sur la délivrance des enfants de l'exploitation sexuelle

Chair: Toby Barrett
Clerk: Tom Prins

Président : Toby Barrett
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON JUSTICE AND SOCIAL POLICY

Tuesday 4 June 2002

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE ET DES AFFAIRES SOCIALES

Mardi 4 juin 2002

The committee met at 1610 in room 151.

The Chair (Mr Toby Barrett): Good afternoon, everyone. Welcome to this regular meeting of the standing committee on justice and social policy for Tuesday, June 4. We're meeting in room 151. On our agenda we have three orders of business. Just to review that, they are (1) election of a Vice-Chair, (2) establishment of a subcommittee on committee business, and (3) clause-by-clause consideration of Bill 86.

ELECTION OF VICE-CHAIR

The Chair: We'll consider the first order of business, election of the Vice-Chair.

Honourable members, it is my duty to call upon you to elect a Vice-Chair. Are there any nominations?

Mr Frank Klees (Oak Ridges): Chair, I would like to nominate Al McDonald as Vice-Chair.

The Chair: Any further nominations for Vice-Chair?

Mr David Christopherson (Hamilton West): Has he got a platform?

The Chair: We may come to that. There being no further nominations, I declare the nominations closed and Mr Al McDonald is elected Vice-Chair. Congratulations.

I declare that order of business closed.

APPOINTMENT OF SUBCOMMITTEE

The Chair: The second order of business is the establishment of the subcommittee on committee business. Is there a mover for the motion to appoint a business subcommittee?

Mr Klees: I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair, or at the request of any member thereof, to consider and report to the committee on the business of the committee; that the presence of all members of the subcommittee is necessary to constitute a meeting; and that the subcommittee be composed of the following members: the Chair as Chair, Mr Hardeman, Mr Bryant and Mr Kormos; and that substitution be permitted on the subcommittee.

The Chair: Is there any discussion on this motion? Seeing no discussion, are the members ready to vote?

All those in favour? I see none opposed and I declare that motion passed.

I declare that order of business closed.

RESCUING CHILDREN FROM SEXUAL EXPLOITATION ACT, 2002

LOI DE 2002 SUR LA DÉLIVRANCE DES ENFANTS DE L'EXPLOITATION SEXUELLE

Consideration of Bill 86, An Act to rescue children trapped in the misery of prostitution and other forms of sexual exploitation and to amend the Highway Traffic Act / Projet de loi 86, Loi visant à délivrer les enfants prisonniers de la prostitution et d'autres formes d'exploitation sexuelle et modifiant le Code de la route.

The Chair: The next order of business is Bill 86, An Act to rescue children trapped in the misery of prostitution and other forms of sexual exploitation and to amend the Highway Traffic Act. We will now consider Bill 86 clause by clause.

I will indicate from the orders of the day, "That the standing committee on justice and social policy shall be authorized to meet in Toronto for up to two days of clause-by-clause consideration of" Bill 86.

I would remind the committee we are now in our second day of hearings pursuant to the order of the House on October 1 of last year. We did commence one day of clause-by-clause consideration of this bill in December of last year. Ever bearing in mind that we did commence clause-by-clause, as I understand it—and the clerk could clarify any of this—as of last December 10, we had arrived at page 4 of the package before you with respect to clause-by-clause debate. At that time, Mr Bartolucci had already moved the motion on page 4. I would now ask the committee, is there any further debate on this motion?

Mrs Lyn McLeod (Thunder Bay-Atikokan): Mr Chair, I apologize. I was hoping my colleague would be here to address the bill that he has obviously been working on. I just need to get one small bit of clarification as a starting point. Are we on page 4 of the motions? Is that the page 4 we're addressing?

The Chair: I'm sorry, we're on page 4 of the package of motions that we have before us. Just to clarify, it is a Liberal motion with respect to Bill 86.

Mrs McLeod: I do have it before me. Could I also just ask, as a point of clarification, whether the committee adopted or defeated the previous three motions that would have been moved prior to today? I do apologize for not being up to speed on this.

The Chair: I have a good memory, but mine is very short and I don't recall the details of December 10. I might ask the clerk to give us a thumbnail sketch or a summary of the previous motions and the results of the votes.

Clerk of the Committee (Mr Tom Prins): Of the first three pages, the Liberal motion on page 1, moved by Mr Bartolucci, was lost; the motion on page 2, moved by Mr Tilson, was carried; the Liberal motion on page 3 was withdrawn; and the subsequent page 4 that we're dealing with now was moved in its stead.

Mr Ernie Hardeman (Oxford): As I look at the motion, moving that section 6 of the bill be amended by striking out "six months" and substituting "12 months," I'd like to know where in the bill we are, where that fits in.

The Chair: I will entertain discussion from the three parties.

Mr Frank Mazzilli (London-Fanshawe): Certainly we would not have a problem with that amendment. Members of this committee are welcome to support that amendment if they wish.

The Chair: Any further discussion?

Mr Hardeman: I was going to say, Mr Chairman, I support that. I think anything that increases the penalty for this type of activity is good news, so I will be supporting the motion.

The Chair: Any further discussion? Are the members ready to vote? We are voting on the Liberal motion on page 4.

All those in favour? Opposed? Seeing none opposed, I declare this motion carried. That completes the amendment to section 6. I would now ask the question, shall section 6, with this amendment, carry? I declare section 6 carried.

We now go to section 7. On page 5 in the package we have a government motion. I would ask a member of the government to read that motion.

1620

Mr Hardeman: I move that subsection 7(3) of the bill be struck out and the following substituted:

"Confinement pending hearing

"(3) An individual apprehended under this part shall be confined in a safe facility pending the show cause hearing required under section 9.

"Exception

"(4) Despite subsection (3), the administrator of the safe facility in which an individual is confined shall authorize the release of the individual and notify the society of the release if the administrator is satisfied that the individual was at least 18 years of age at the time of the apprehension."

The Chair: Any discussion on this motion? Are the members ready to vote on this motion?

All those in favour? Those opposed? I declare this motion carried.

Shall section 7, with this amendment, carry? Carried.

Section 8: I see no amendment to section 8 of this bill. Shall section 8 carry? Carried.

If we could turn to section 9, again I see no amendment to section 9. Shall section 9 carry? Carried.

If we could turn to section 10, on page 6 in your package I see a government motion to section 10.

Mr Hardeman: I move that subsection 10(3) of the bill be amended by striking out "take reasonable steps to".

The Chair: Discussion with respect to this government motion?

Mr Michael Bryant (St Paul's): I think I know why, but I'd like to hear from the government what the purpose of the amendment is, why it is being done.

Mr Mazzilli: We have William Bromm from the legal department of the Attorney General who is sitting with us. I would ask if he could come forward and explain that to this committee.

The Chair: Certainly. Could I ask you to identify yourself, sir.

Mr William Bromm: I'm William Bromm, counsel with the policy branch of the Ministry of the Attorney General.

The amendment that has been proposed to section 10 is really to correct an inconsistency between the existing sections 9 and 10 of the bill as it currently stands. In subsection 9(2) of the bill, it says, "The society shall ensure that the child is informed ... of ... the reasons," and then in section 10 it says, "The society shall take reasonable steps" to notify the child. We wanted to correct that inconsistency, remove the "reasonable steps" requirement in section 10 and simply say that they shall notify the child, to make it clear that in both sections the child gets notice of the hearing that's taking place.

Mrs McLeod: Based on that explanation, I would just have two questions, and I take as a given that there's a requirement to notify the child. Assuming that that child is capable of receiving notice, if the child should be in a state where they're not capable of receiving the notice, is it still considered that the notice has been given, so that the child can be taken into custody? I assume there may be situations where there may be somebody with a significant problem.

Mr Bromm: That's correct. There may be instances in which the child is not able to either at the time comprehend the notice requirement or to attend the hearing because of, for example, health reasons. We know many of these children have drug and alcohol problems when they're picked up. That's why in section 9, for example, when we talk about the 24-hour period for a hearing, it says, "or as soon afterwards as practicable." So if a child is unable to comprehend the notice or unable to actually receive notice at the time, then the notice would be given at a subsequent time, when it can be understood and provided.

Mrs McLeod: That wouldn't prevent taking the child into safe custody.

Mr Bromm: No. It would simply allow—

Mrs McLeod: Is that clear in law?

Mr Bromm: Yes. That's why we have the words "as soon afterwards as practicable." It's also inherent in the

court's ability to simply confirm that what took place was appropriate in the circumstances.

Mrs McLeod: Given that the other requirement is to notify such "person or persons as may be required under rules prescribed by the regulations"—I assume the regulations would state, for example, parents or legal guardians. I think almost invariably it might be difficult to serve immediate notice on, or even to notify at all, parents or legal guardians. Again, can I ask you how the law ensures that child can be protected in the event that notice can't be given?

Mr Bromm: There is a provision in the section that says failure to provide the notice does not invalidate any of the procedures taken under the legislation. In the circumstances you describe, which will be common if a parent can't be notified within the 24-hour or even the five-day period, the hearing can continue and treatment can proceed.

Mrs McLeod: So essentially it's still "reasonable steps" even though you're taking that specific wording out?

Mr Bromm: Yes.

The Chair: Further discussion? Seeing no further discussion on this amendment, are members ready to vote?

We're voting on the government motion on page 6 in the package. All those in favour? Those opposed? I declare this motion carried.

Shall section 10, including this amendment, carry? Carried.

If we turn to section 11, page 7 in our package, I find a government motion.

Mr Hardeman: I move that that section 11 of the bill be amended by adding the following subsection:

"Temporary absences

"(1.1) Despite an order described in clause (1)(a) requiring the confinement of a child in a safe facility, the court, a children's aid society worker or the administrator of the safe facility in which the child is confined may authorize the child to be temporarily absent from the facility during the period of confinement and may set such conditions and impose such restrictions in connect with the temporary absence as he or she considers to be in the child's best interests."

Mr Bryant: Just a question again: could we maybe get some background as to the purpose of this amendment? Obviously the provision is written in a way that this could fly in the face of a court order, to the contrary. In essence, I guess the children's aid society worker would get the discretion in this matter and not the court, but that's obviously, I would hope, for a good reason. I ask the government, what's the purpose of the amendment?

Mr Mazzilli: Mr Chair, I will gladly refer that question to legal counsel so that Mr Bryant can secure an answer.

Mr Bromm: I'll apologize in advance if my explanation is a little bit legal in nature because this is really a technical amendment to the legislation.

Subsection 11(2), if you look at that section, already speaks about temporary absences from a safe facility. Basically what it says is the total period during which a child can be held for treatment is 30 days, including any period during which the child is temporarily absent for medical treatment, counselling or to appear in court. The act already provides for temporary absences.

After the legislation was passed and when we consulted with children's aid societies and service providers, they raised a concern that while the act actually spoke of temporary absences, there was no provision in the legislation that actually authorized them to provide for those temporary absences. They like to have specific provisions for every step they take when they're dealing with a child in need of protection. Because of that, even though the government was confident the reference to temporary absences in subsection (2) already provided for that temporary absence, we have made this technical amendment to make it very clear that they are authorized to make provision for a temporary absence for things like medical treatment. We're not introducing a new concept in the legislation. It's just to clarify that there can be temporary absences and it's up to the safe facility or the administrator of a service to authorize the temporary absence without having to go back to court to have them amend the court order to say, "You can be gone for two hours on Tuesday for medical treatment or counselling."

Mrs McLeod: A very small point: just in the interests of good drafting, is the phrase "in connect with" a legal term or is that a typo and it should be "in connection with"?

Mr Bromm: Probably "in connection with," but I'll defer to legislative counsel.

Ms Catherine Macnaughton: It's a typo.

Mrs McLeod: Can it just be corrected as a typo, Mr Chair?

The Chair: Yes, that will be changed.

Interjection.

Mrs McLeod: I think it could just be done on a friendly basis.

The Chair: That's been duly noted. Any further discussion on this amendment? We have before us a government motion that's found on page 7. Are members ready to vote? All those in favour? Those opposed? I declare this motion carried.

We have a second amendment to section 11, a Liberal motion that's found on page 8 in the package. I would ask for a mover.

Mr Bryant: I move that section 11 of the bill be amended by adding the following subsection:

"(1.1) If the court orders that the child be returned to the custody of his or her parent or that the child be released, the court may further order that the child take part in an appropriate community support program designed to help the child end his or her sexual exploitation or to lessen the risk that the child will be sexually exploited."

I should say that the purpose of the predecessor bill to Bill 86, which was a private member's bill introduced by

Sudbury MPP Rick Bartolucci, was very much about rescuing victims of sexual exploitation, literally rescuing them and helping them to lead a healthier life where they are not subject to the misery of prostitution. Along those lines, I know that Mr Bartolucci was particularly keen and in his bills ensured through legislation that in fact there be direction so that it not just be about the matters we've been discussing to date during these committee hearings, but also to ensure there is the appropriate community support. Of course, I know the government will tell us they're committed to community support. What we want to do is entrench it in legislation.

Mr Mazzilli: I certainly will not be supporting this amendment. Courts can make different orders under different acts when it comes to children. I understand the intent here of the member, but the courts already have systems in place under many different acts to protect children. I don't think we need to make this legislation any more complicated than it already is.

Mr Klees: I was essentially going to say the same thing. I think it's redundant and unnecessary. The court will certainly make any order it feels appropriate under the circumstances.

Mrs McLeod: I'm a little bit surprised, because this doesn't mandate a requirement on government to set up the program; it simply says that the court may require there be some follow-through. The reaction of government members forces me to respond and to think a little bit about what we're doing with this bill, and what Mr Bartolucci intended with his bill, which was to take some young people who have been exploited and abused and give them a safe haven long enough to get them out of the abusive situation. If that's all we do, we have really served no purpose. Simply taking somebody out of a situation briefly is a rescue attempt, but without follow-through in terms of counselling to deal with the circumstances that put that child in the position of being sexually exploited in the first place, without counselling that allows the child to get some sense of self restored—if you've done any work at all with children, or with adults, for that matter, who have been sexually abused, you know there is an incredible trauma to the sense of the person that takes a long time to heal and it takes professional counselling to heal.

I would really be concerned if we were hesitant to at least acknowledge that simply putting somebody temporarily into a safe place and then putting them back out in the situation where, unless they get the counselling and support that's needed, they'll go back to being sexually exploited. I think we would be doing them a huge disservice not to at least acknowledge that there is the need for follow-through.

Mr Mazzilli: Mr Chair, if I again can refer this question to legal counsel from the ministry to explain the intent of this motion and the difficulties with it.

Mr Bromm: The way section 11 is currently structured speaks only to the broad placement powers of the court, and that is in terms of setting the confinement period that a child may be subject to. That does mean the court does not have other authority with respect to setting conditions as part of its order.

The concern that might arise with respect to this particular amendment is that it speaks to a particular power of the court in terms of providing for post-treatment programs or services. The concern is that when you start listing specific powers of the court, that may be interpreted to mean that the court is not meant to have other powers that are not specifically listed in the legislation. The government would not want to limit the court's power in that manner or have any risk that there be any interpretation that the court is only meant to have the certain enumerated provisions within the statute. So it was preferable to simply have a broad placement power and leave it to the court's inherent jurisdiction to decide what other conditions may be appropriate as part of the orders.

Mr Bryant: If that be the reason, I accept; I wouldn't want to limit the court either in terms of the particular order. If that is the concern, and that's the concern that has been articulated by legal counsel, then we can quite easily address that by putting in language in this section that ensures that we're in no way limiting the court from going much further. So if that's the concern, then I'm very open, just as we made a friendly amendment to the typo, to making a friendly amendment to this motion to address that particular concern so that we are in no way limiting the court order. Is the government open to that?

Mr Mazzilli: Certainly from what I heard, I would not be open to that. Obviously the courts have a wide range of options with the section as it is stated right now. I don't believe we need to make any changes or amendments to this motion.

Mr Bryant: Could I just say to that, then it sounds a lot like the government just doesn't want to support a Liberal motion and that it's got nothing to do with the reasons just articulated by legal counsel. That seems to defy the non-partisan approach to this particular issue and I have no doubt that the people who do support this bill will be quite disappointed.

Mrs McLeod: I'm a legislator, not a lawyer; I'm struggling with the explanation that's been given. As I read subsection 11(1), it says, "The court may order that"—sorry, we're in section 12 and I wanted to relate back—and then there are clauses (a), (b) and (c). It looks to me as though section 11 has limited the court in terms of what the court may do with the child who has been taken into a safe house, that they can confine that child in a facility as long as it's felt that continued confinement helps, but you can't confine the child indefinitely.

The only other alternatives the court has are to return the child to the custody of the parents—and in this bill we have no way of knowing whether or not the parental situation is one of the things that has been conducive to the child becoming vulnerable to exploitation—or the child may be released. That defeats the whole purpose of having taken the child into safe confinement to begin with.

In what way does the court have any broader powers to provide for that child than is provided in section 11

under this bill? So when you say to me that we can't add anything that would limit the court's powers, I think the bill is already much too limited in terms of what the court can do. The bill prescribes three things the court can do with the child, and none of them have to do with requiring the provision of follow-up treatment for that child.

1640

The Chair: Do you have a question, then, Mrs McLeod?

Mrs McLeod: My question is, in what way is the court not already limited by the bill?

Mr Bromm: The bill limits the court in terms of its placement powers, and you're correct: there are the three broad placement provisions in terms of setting treatment for up to 30 days, releasing the child to a parent or releasing the child on his or her own. But the court also has a broader jurisdiction over a child; parens patriae jurisdiction is the Latin phrase, and it's just an inherent jurisdiction the court has with respect to protecting a child. As part of that jurisdiction, the court would be able to impose any condition that it thinks is appropriate in making part of its order beyond just confinement. So the provision isn't structured to limit the power of the court in any respect; it's simply to set out the three ways the court can provide for placement of the child but not necessarily for treatment of the child.

Mrs McLeod: So even in the case of release, as opposed to release into parental custody, the court is still not limited from requiring the community placement?

Mr Bromm: Exactly. The court can say, "The child is released, but I would require that the child do something," or "The child is released to the parent, but I would require that the parent and the child obtain counselling" or whatever. So it doesn't limit the court's ability to impose other conditions on the order.

Mrs McLeod: So is there language you could suggest that would address the concern about the suggestion of the child taking part in appropriate community support programs, that that could be worded in such a way that it in no way limits what the court can do under the terms you've just set out?

Mr Bromm: That wouldn't be appropriate for me to do. I can comment on suggested wording, but it's not my role to actually assist with drafting. I can comment on it, but I don't know if legislative counsel may be able to assist in the drafting of a motion of that nature.

Mrs McLeod: In any event, Mr Chair, that would be dependent upon the government members being prepared to acknowledge the fact that there is a necessity of doing more than simply confining a child temporarily if we're actually serious about preventing future sexual exploitation.

Mr Hardeman: First of all, in the debate on the motion, I have concern as we're talking about what is there to protect children, and the line that is being added here is in fact just something the courts may or may not do. The question is to the legal representation here: am I correct in assuming, in your opinion, that what is suggested here could be attached, or is already available, to the courts in any one of the three scenarios of what the courts can do in this legislation as far as confinement or dealing with the whereabouts of the child?

Mr Bromm: Yes. The court would be able to order this, whether or not it's stated in the bill. Our concern was, if you state this in the bill, it implies that the court is not meant to have other powers. There may be circumstances in which the court decides that there is a specific treatment that the court thinks the child should undergo or a specific thing a parent should do. If we list this but not those other specific things, there is a risk that someone will argue that the court no longer has jurisdiction to do that because this is a complete codification of the court's powers.

Mr Hardeman: Not going quite as far as other things they may not do, is it reasonable for me to assume—and, like Mrs McLeod, I'm not a lawyer. I'm practising to be one, so I thought this would be a good place to get some of my training. If we included this motion to amend that section, is it reasonable to assume, then, that we're saying that if a child is released—not to the parents; just released—the courts could not, would assume that they could not, apply this to that child? Then, because we told them where they can apply it or where they may, is it a natural assumption that they may not do it somewhere else?

Mr Bromm: If it only appears in one section related to release with a parent and it doesn't appear somewhere else, then there is a risk. Some would argue, if the government meant for that power to apply to that section, that they would have added it there.

Mr Hardeman: I guess that would make it solid enough for me that I wouldn't support the section.

Mr Klees: It's very clear to me that the intent, as expressed by Mrs McLeod earlier, is that we would want children to not only be confined to deal with a problem, but also then to receive appropriate support in the community. It's very clear to me that that is available without any prescriptive amendment as is being proposed here. It's for that reason that I wouldn't support the amendment.

I also want to say that I find Mr Bryant's earlier comments very offensive, suggesting members of the government are not supporting this amendment because we don't want to support a Liberal amendment. I remind him we already have passed a Liberal amendment. That's not the approach we're taking. To suggest that because we don't support this particular amendment we're approaching this on a partisan basis is also uncalled for. I trust we'll proceed with this in a much different spirit.

Mr Bryant: Mr Klees, my experience is based not just on what's happening today, but I suppose it's based, in my short parliamentary career, on my experience before this justice committee over the last couple of years. This justice committee has operated along partisan lines. Not all committees have, but this one has.

Mr Klees: And you of course never have.

Mr Bryant: We've supported government amendments—

Mrs McLeod: We're supporting the bill.

Mr Bryant: —and we support this bill. In any event, I take Mr Klees's point. If he's saying it's a new day and this committee in fact is now going to behave in a non-partisan manner, then I look forward to, if not on this particular amendment, getting the member's support on future Liberal amendments on this bill and others.

Mr Klees: I just want to remind Mr Bryant that we are in fact in this committee discussing a bill that was proposed by one of his colleagues, a Liberal member—

Mr Bryant: Yes, and this was his amendment.

Mr Klees: —and this bill is here because government members supported it to be here. It would not be here if it was not for government members voting for it to be here.

I'm not suggesting it's a brand new day. I am suggesting that we're here discussing a bill that quite frankly should be dealt with in a non-partisan way. I agree with you, but that doesn't mean members of government are not entitled to their opinions, to express and vote accordingly and will continue to do that. We don't need your partisan sneers in this room, which is precisely what you're doing. It's uncalled for.

Mr Bryant: Mr Chair, I'm not going to be lectured by Mr Klees on how I ought to be conducting myself here—

Mr Klees: And neither will we.

Mr Bryant: —when in fact the government has not come up with a single good reason for not supporting this amendment. I offered to make an amendment to address the concerns and the government said it wouldn't stand for it. I'm not making this up. You're not coming up with a good, rational reason and you refuse to address it through an amendment. There can be only one alternative and that would be that you're playing politics with this. But it wouldn't be the first time and it won't be the last.

The Chair: I'll go to Mrs McLeod and then Mr Christopherson.

Mrs McLeod: I appreciate legal counsel's advice on this particular amendment. I want to put on the record that our colleague Mr Bartolucci, who did, as Mr Klees has indicated, bring forward the original bill on the protection of children from sexual exploitation, would be absolutely heartsick if the bill did not in some manner, in some form, in some place, address the fact that it is absolutely essential to provide counselling support for any child you take into custody from a situation of sexual exploitation. With that in mind, I would suggest that we vote on this particular amendment and I trust the government will see the next amendment as being one which addresses Mr Bartolucci's concern and our concern without running into the problems legal counsel has identified on this particular amendment.

Mr Christopherson: I'm not a member of this committee, I'm just subbing in for the afternoon, but I've got to tell you it's a joke to suggest that there's no partisanship in any of these things. Of course there is, and this whole back and forth for the last few minutes is nothing but partisan bantering.

1650

If you take a look at this specific issue in terms of the needs of the child and you listen to the expert testimony we've been given, I don't know how anybody can conclude anything other than what is desired in this Liberal motion can be accommodated by virtue of what's in the draft bill. In fact, following and passing this particular amendment might indeed prohibit the very support that the Liberals want the child to receive in the community.

So it seems to me that if we're really serious about being non-partisan, which I haven't seen any evidence of so far, it's not in the best interests of the children concerned to pass this motion. It's that straight up.

Mr Mazzilli: I thank Mr Christopherson for those comments. Certainly, if Mr Bartolucci did draft this amendment—as Mrs McLeod said, we are legislators; we're obviously not lawyers with expertise in case law and other laws that relate to this one and the powers that are out there.

In a non-partisan way, rather than getting into bantering back and forth, I called before this committee counsel to give open and free answers. If Mr Bartolucci had heard the intent of his motion, and that that's already in law and the courts may have other powers, he would have withdrawn this motion very quickly. Instead, what we got from Mr Bryant is some very partisan blathering, and we've been here for half an hour on a motion that actually restricts the courts.

I will just leave that with this committee and I thank Mr Christopherson for the support on that.

The Chair: I would ask the committee members if they are ready to vote.

Mr Bryant: Recorded vote.

The Chair: We have a recorded vote on the Liberal motion found on page 8 of the package.

Ayes

Bryant, McLeod.

Nays

Christopherson, Hardeman, Klees, Mazzilli, McDonald.

The Chair: I declare that motion lost.

Shall section 11, as amended, carry? Carried.

Section 12: we see a Liberal motion that's found on page 9. Who would entertain that motion?

Mrs McLeod: I move that section 12 of the bill be amended by adding the following subsection:

"(2) At the time of the release under paragraph 2 of subsection (1) of a child who is at least 16 years of age, the safe facility and the society shall ensure that the child is put into contact with appropriate community support services that help children who have been sexually exploited."

I believe that this in no way limits the court since it does not deal with the issue of court orders. It seems to me self-evident that if we are serious about having the follow-up to the taking of the child into confinement, this is a minimum requirement in the legislation, that the

custodians of the safe facility will ensure that child is put into contact with community support agencies.

I do believe that goes a long way to addressing the concerns Mr Bartolucci would have had and to reassuring me on the defeat of the last amendment that, if we can at least make sure, when that child is ultimately released after having been in a safe facility, they are put into contact with community support services, that we will know there will be some follow-through.

Mr Mazzilli: Again, Mr Chair, I will refer to legal counsel to make an explanation on that motion.

Mr Bromm: The only explanation I would make by way of the motion is that it's correct. It wouldn't in any way limit the jurisdiction of the court, but the amendment would really just be stating legislatively what the mandate of the children's aid society and the safe facility would be in any event. So in many respects, it's really not necessary to specify it in the legislation because it is something they do by nature of their existence.

Mr Mazzilli: I have a question on that. That's through the Child and Family Services Act; under what other acts does the court have these type of powers?

Mr Bromm: This particular amendment isn't related to a power of the court per se. It's related to what the obligation of a children's aid society or a safe facility would be upon the release of a child. The mandate of the society and the safe facilities is really set out in greater detail in the Child and Family Services Act. This act wasn't intended to repeat those mandates but really to provide for the placement of a particular category of children.

Mr Mazzilli: If I can understand this, sir—often legislation duplicates itself—the Child and Family Services Act will have some powers and then another piece of legislation will have another piece of power. It may be the same and, in some cases, different. It causes confusion, not clarification. What you're saying is that this already exists and it should not be in this act. Am I correct in understanding that?

Mr Bromm: Yes. It basically states what is already the legislative mandate of the children's aid society and also the operative mandate of any safe facility they would choose. So it simply would be a legally redundant provision because they have that mandate in any event.

Mr Mazzilli: I'm certainly happy with the explanation that that authority exists.

Mrs McLeod: The authority exists. There is nothing that specifically directs a children's aid society or a safe facility—until this bill is passed we don't have safe facilities that deal with this particular kind of problem. There is nothing I'm aware of in law that directs that there shall be contact made with the community support services. Granted, they have the authority to do that, but they are not mandated specifically to do that.

I could get into a much longer speech about what's happening with children's aid societies right now and the fact that they are overworked, that there are too many referrals, that there are too many situations they're dealing with where there is not the appropriate follow-up and where there aren't community support services to do the appropriate follow-up. I won't. That's a debate for a different day.

I will turn the floor over to Mr Bartolucci, whose concern for these young people brought this bill forward to begin with, but I would plead with you that we are dealing with a very exceptional situation here. If you have ever dealt with one individual, one human being, who has been raped, once, you will know the extent of the trauma that that individual experiences. It is inconceivable to me that we think we can take somebody who has been sexually exploited, whether once or repeatedly, take them into a safe facility for a maximum period of time, as set out in this law, and then release them without community supports. This is not something that should be left within the authority and discretion of any agency. This is something which should be mandated as a requirement.

The amendment that's been proposed here doesn't say what facility; it doesn't say that the child must attend. The only legal requirement that is set out here is that the safe facility has a responsibility to put that child in contact with appropriate counselling services. How can that do anything other than take a step to ensure that there will be some follow-up? Without this amendment, I submit to you, we are doing things that are dangerous with this bill.

Mr Klees: I have to say that my inclination is to support this amendment. The reason for that is that, as I read it—unless there is some advice to the contrary—this simply is directing and ensuring that the child is put into contact with an appropriate support service in the community. I just think that's responsible. I have enough concerns about some of the agencies in our communities, for whatever reason—sometimes it's perhaps simply the pressure they're under and priorities they have, the resources they have or perhaps, in some cases, incompetence—that I don't really want to leave it to the discretion of these agencies to do the right thing because I think there's too much evidence to the contrary. So my inclination is to support this. I think it will ensure an appropriate follow-up with these young people.

1700

Mr Rick Bartolucci (Sudbury): There isn't one of us around this table who doesn't believe we have to ensure that there are some safeguards put into place after. The purpose of the amendment is not to mandate a particular agency to do something. Simply, all we want to ensure is that there are the safeguards in place to ensure that the child is not sexually exploited or abused again. We don't want to allocate any money; we don't want to allocate any particular ministry or agency to do it; we just want to ensure that there are safeguards built in so that these children will be protected.

I think it's crucial when you say "who is at least 16 years of age," because the member from London-Fanshawe spoke about agencies and acts, but they do not apply to this particular group. So I would suggest that it's allowing latitude on the part of the minister to ensure that

by regulation those safeguards are there, but it is imperative that they be there.

There are a few of us who were on committee. We heard testimony from children who were sexually exploited and abused. As Mr Klees so eloquently said, the biggest concern they had was that there weren't appropriate agencies where they could seek help, get that security necessary to ensure that they weren't sexually exploited or abused in the future.

Mr Hardeman: A couple of questions in relation to how this section works: if you look at the sections that are there, and I guess this is to, again, the legal staff, if you add this subsection, if the child is being released under the Child and Family Services Act, is it appropriate, then, to also attach other conditions that they must notify others of this release? And how does that deal with the individual rights of the child?

Putting him in contact with someone also spreads the information further. Is that at the best wishes, or is that an obligation that we should put in the act that says that's going to happen, that their problem is sent further than what they wanted? Should that be done with their consent, or would it be appropriate to put it in the way it is, from a legal point of view?

Mr Bromm: As I think has been previously mentioned, it's not requiring that the child do any particular thing that they may not consent to do; it would simply be a requirement on the safe facility to say, when a child is released, "These are the names of some agencies," or to help the child make contact with an agency. I certainly would not want to, in my response, have diminished the importance of that sort of activity or to have in any way diminished the importance of after-care programs for the youth. I was simply indicating that this is something the society would be doing through its general mandate and it would be something the ministry would be ensuring was part of its request-for-proposal process when a safe facility came forward to say they would like to actually be one of the facilities that provides these services. So in that regard it was not a legislatively necessary provision. I'm certainly not commenting on the merits of the principle behind the provision.

Mr Hardeman: Is it your position, then, that to "put into contact" by definition you would have met that requirement by just giving him the phone number? To me, "putting in contact" is that both parties have been notified of the situation. I guess my concern is the giving of information, that maybe the individual who is at least 16 years old—that you're giving information they don't want given to someone else. I think I'm going on Mrs McLeod's comment about the traumatization of an event like that; it's not something that everyone wants to share even with other counsellors or other associations. So I'm just concerned.

Other than that, I too will support the motion. But I'm concerned about the privacy and the individual's rights about putting in contact and how one interprets "putting in contact."

Mr Bromm: I think it's probably an intentionally and necessarily broad phrase. The way I read it, the information lies in the hands of the child as opposed to in the hands of the agency that the child perhaps may contact. So the facility would not be facing a situation where it's releasing confidential information related to the child. The agency would be more giving the information to the child that they may proceed with. There may be circumstances where the child says, "Can you help me make that contact?" in which case the agency may intervene further. There may be circumstances in which the child says, "Thanks very much, and I'll think about it," and then it will be up to the child to do it. So I don't think there are any privacy concerns in the way that it's currently drafted.

Mr Mazzilli: A child in need of protection under the Child and Family Services Act obviously has a much broader definition than sexual exploitation. If a child is in need of protection, what kinds of safeguards, what kinds of services or what kind of mandate would the children's aid have in relation to a child in need of protection?

Mr Bromm: They have a broad range of powers with respect to a child in need of protection under the Child and Family Services Act. But one thing I would point out is that this particular provision relates to a child who is at least 16 years of age, and the Child and Family Services Act defines a child as someone under the age of 16. So this provision is actually designed to address that group of children who are not covered by the Child and Family Services Act unless they were subject to an order under that act before they were 16 years of age. So in that case, this provision speaks to that different class. But in the same respect, the mandate of the facility would still extend to this group of children, and this is something they would be able to do in any event.

Mr Klees: Just for further clarification, I'd like it if perhaps Mr Bartolucci could clarify this. I'm assuming that it was Mr Bartolucci who drafted this amendment. There may be those concerned that the implication of this is that where there are not specified "agencies"—that word is being used, I think, by everyone in this discussion—somehow there's an obligation on the part of government to establish an agency to provide this kind of counselling. That wasn't my reading of it. My interpretation of this is that as long as there is a referral to a support service within the community that can in fact provide support—that may be the local church, a community support agency or entity, a very informal facility or counsellor in that community. So for the record, I'd like Mr Bartolucci to either confirm my interpretation here or to provide further clarification.

Mr Bartolucci: Mr Klees is absolutely right. Listen, if we wanted to put an amendment that mandated those children who are at least 16 years of age to go to a particular agency, or set up an agency, we would have drafted it that way. The important thing here to understand is, these children in many instances do not have the support services in place, do not have strong parenting in place, do not have a knowledge-based pool to know enough to go to a particular area. Simply what this is saying is, "Listen, we provide you with the guidance; we

provide you with the opportunity. You're 16 years old; you have to decide." Basically that's all we're saying with this amendment. But it is crucial from testimony that they have that information. Really, that's what we're providing in this instance.

1710

Mr Mazzilli: Certainly, from what I've heard from counsel, this is being done in practice from agencies. I would be supportive of putting it in legislation. It's already being done in practice.

The Chair: Are members ready to vote? We're voting on the Liberal motion on page 9. Those in favour? Those opposed? I declare the motion carried.

Shall section 12, including this amendment, carry? Carried.

Looking at the bill, with the permission of the committee, we could collapse sections 13 through and inclusive of section 21 for voting. Shall those sections carry? Carried.

Section 22: We have before us a government motion on page 10 in our package.

Mr Hardeman: I move that subsection 22(1) of the bill be amended by striking out "subsection 212(2.1) and substituting "subsection 212(2) or (2.1)".

Mr Klees: Could we just get an explanation?

Mr Bromm: This is again a technical amendment to the legislation. The Criminal Code actually contains two specific subsections that relate to youth prostitution. We had inadvertently referred to only one of those subsections in the original draft of the bill. We certainly would not want to omit one of those sections from the legislation and so the amendment ensures that we cover both.

The Chair: Are members ready to vote with respect to the government motion on page 10? All those in favour? Those opposed? I declare this motion carried.

Shall section 22, as amended, carry? Carried.

I now see the possibility of collapsing sections 23 through to and inclusive of section 31. Do I have permission of the committee to do that? Shall sections 23 through to and including section 31 carry? Carried.

Section 32: If we turn to page 11 in our package, we see a Liberal motion. I would ask for a mover.

Mrs McLeod: I move that subsection 198.5(2) of the Highway Traffic Act, as set out in section 32 of the bill, be amended by striking out "or" at the end of clause (a), striking out clause (b) and substituting the following:

"(b) three years if in the five years before the date of the conviction the person was convicted of an offence under section 211, 212 or 213 of the Criminal Code (Canada) that would have resulted in a suspension of his or her driver's licence under this section; or

"(c) an indefinite period of time if, in the five years before the date of the conviction, the person has been convicted of two or more offences under any of sections 211, 212 or 213 of the Criminal Code (Canada) that would have resulted in a suspension of his or her driver's licence under this section."

Mr Bartolucci: Obviously, everyone in this room knows my views about johns and pimps. I believe this is simply a tougher provision for tougher penalties. I honestly believe if you ruin a child's life, there should be a punishment in place that reflects the serious nature of the crime you've committed against children who are sexually exploited or abused.

Mr Mazzilli: Driver's licence suspensions are used in impaired driving situations and so on, and extended into the Highway Traffic Act. I see some problems trying to extend this to all kinds of criminal offences and I'll ask our legal representative from the Attorney General to explain perhaps some of those difficulties.

Mr Bromm: The act currently does have a provision that has been proposed for amendment that allows for driver's licence suspension and it has a one- and three-year suspension period. What this amendment would do is increase that to three and then five years. I won't comment on the merits of the amendment, but something for the committee's consideration that they may consider appropriate to think about is that the current one- and three-year periods that are in this current statute mirror the periods that are set out for the other offences, some of which have already been listed, such as impaired driving, homicide with a motor vehicle and dangerous driving offences.

What this amendment would do is to provide a longer suspension period for activities involving youth prostitution than are currently provided for other serious offences, such as impaired driving and vehicular homicide. The committee may just want to consider whether or not it would be appropriate to have longer suspension provisions for one offence than for another class of offences.

Mr Klees: I concur with Mr Bartolucci that we should be able to send the strongest of all messages to society that anyone who stoops to destroy a young person's life will have to pay some consequences for that. I have a problem, though, with setting this up juxtaposed to what we're doing for impaired driving, for example, and some of the other offences. I would much rather we deal with all of these offences perhaps at a separate time and place, because I think we're far too lenient on all of these other matters as well.

My concern is, by making this adjustment now, we're sending the wrong signal to the community that this is more important or that these other offences are less offensive. I think that's a problem. It's a problem for me. For that reason, I will not support this amendment, but I certainly concur that there should be a longer sentence; the consequence should be stronger. I'll go on record as saying that the consequences should be stronger with regard to these other offences as well and that, as a Legislature, we should deal with that at some point.

Mr Bartolucci: I respect Mr Bromm's opinion and certainly Mr Klees's opinion on this. At some point in time we have to take a stand and we have to say, yes, in fact the punishments are too lenient. You know what? We lost a great police officer in Terry Ryan, and that punishment, if in fact that individual is found guilty of

impaired driving, is far too lenient. He has altered the life of an individual, that individual's family and his community not for one year, two years or three years, but for those people, for all of time.

Similarly, we all understand the serious effects sexual exploitation has on children. In fact, the government in a budget two years ago, I believe, committed $15 million to this bill if it had passed back then because they understood there is maintenance that has to take place with regard to these children and trying to rebuild their future. Honestly, the severity of the punishment must fit how those children's lives are going to be altered and how it's going to affect society. I agree that punishments are far too lax, in my estimation. At some point in time we have to take a stand and start the ball rolling so that when this happens, you understand we have to revisit a number of other infractions that are punishable by this.

1720

Mr Mazzilli: I understand what Mr Bartolucci is intending to do here. I will say that this legislation does cover a period of suspension when you use a motor vehicle for these criminal offences, as do other pieces of legislation. It's important from a provincial perspective to be consistent, that if you're using a motor vehicle to commit an offence, these are the ranges within which we will suspend your driving privileges.

The one thing I want to refocus on again here is that these are pretty serious offences—sections 211, 212 and 213 of the Criminal Code. If I can ask counsel, what are the penalties for those types of offences in the Criminal Code?

Mr Bromm: I apologize, I don't have the Criminal Code in front of me and I certainly wouldn't want to provide you with inaccurate information.

Mr Mazzilli: But would they be in the range of five to 10 years?

Mr Bromm: Yes. It would depend on each subsection and obviously the circumstances of the case. There is another counsel here who may be able to assist us. I don't know if you're familiar with—

Mr Mazzilli: If I understand this properly—because I do understand this stuff a little bit—the court already has the authority on a charge under sections 211, 212 and 213—forget the suspension—to put the person in jail for five to 10 years. It already has that authority. I understand what Mr Bartolucci is trying to do here, but if that's not being dealt with seriously enough in the courts—and Mr Klees has addressed this, Mr Bartolucci—that's a matter for a different level of government. I support suspending driving privileges. As a province we have the authority to do that, and I think we should be consistent, as we are with other pieces of legislation. That would be my submission, Mr Chair.

Mr Hardeman: I share the comments made from either side of me. I support the need for appropriate punishment for the crime. I think not only do we have to be giving the appropriate penalty but we have to be fair to everyone. If you're talking about vehicular homicide and you say, "The penalty for that should be less than the penalty for this," I have a real problem with that, in fairness to all citizens, when it comes to committing crimes. Obviously if the person gets sentenced to five years in jail, whether they have a three-year suspension or a five-year suspension, I suppose it shouldn't make much difference because they shouldn't be driving for the full five years. I think that part is more important, that we make sure the penalties are administered or divvied out appropriately, but we should be consistent in the different levels of offences committed. If a drunk driver is going to get a year's suspension for killing somebody, then I think this one should have the same year's suspension. If more needs to be done to penalize the individual for the crime committed, the courts have the ability to do that in different ways other than the suspension of the licence.

Mr Christopherson: I think Mr Bartolucci has given a rationale for his amendment, at least to the extent that Mr Klees seemed to give his support for the concept. The difficulty seemed to be whether we would allow there to be an inconsistency within the application of the law.

The problem I have with the position put forward by Mr Klees is that it feels a little over-bureaucratic to the extent that you've acknowledged you think it should be higher, and both of you acknowledged that some of these other offences that would be "less than" actually should be elevated. But I don't know how we do justice to this issue by going to the lowest common denominator. If we think it should be the three years as set out in the proposed amendment, then we should pass that. We have the authority and the power to do that here and recommend on to the full Legislature. Then if you, as government members, want to go back to one or both of the justice ministers and say these other things should be elevated, fine, but to have this lesser than we think it should be in this instant case and rely on some review that may or may not happen down the road to put it where we think it ought to be, because we don't like the idea of an inconsistency, to me is not serving the purpose of the bill.

I'm with the amendment on this and with Mr Bartolucci.

The Chair: Any further discussion?

Mr Mazzilli: I cannot support the amendment. We have to be consistent. We heard a government member say we are too lenient. I think he was talking overall in these matters. As we've heard with impaired driving—or sexual offences—in relation to a motor vehicle, the courts have the ability to imprison people for five to 10 years. As Mr Hardeman said, it's a non-issue if those penalties are given out. What we are talking about is really irrelevant if those penalties are given out. If they're not, it's for a different level of government to deal with. I won't go there and I know Mr Bartolucci won't go there.

We need to be consistent as a province. We have the authority to suspend driving privileges. All we're asking is that it be consistent across the board when it relates to Criminal Code offences. So I will not be supporting that amendment.

Mrs McLeod: With the exception of Mr McDonald, we've all been around here long enough to know that the proposed changes to a number of acts in order to have consistency at a different standard in terms of the severity of the penalty are not going to happen. It would be a complex undertaking to open up all those acts. Given the amount of time we have and the amount of time it takes to deliberate something like this, I would be very surprised to see that come forward, unless in fact we have set a new standard in this bill and it's one which, because we're so concerned about consistency, there is some motivation to bring about changes in other acts to ensure there is consistency. As long as there is already consistency at the lower standard that Mr Christopherson talked about, there is no impetus to bring forward changes to the other legislation along with this. I think we set the standard with this bill, and if we're concerned about consistency, there will be motivation to amend the other bills.

The Chair: Are members ready to vote? We have before us a Liberal motion on page 11.

Mr Bryant: A recorded vote, please.

Ayes

Bryant, Christopherson, McLeod.

Nays

Hardeman, Klees, Mazzilli, McDonald.

The Chair: I declare this motion lost.

We have a second motion to section 32, a government motion that's found on page 12 in our package.

Mr Hardeman: I move that that clause 198.5(3)(b) of the Highway Traffic Act, as set out in section 32 of the bill, be struck out and the following substituted:

"(b) an order under the Criminal Code (Canada) or a disposition under the Young Offenders Act (Canada) directs that the person be discharged."

The Chair: Any discussion on this government motion?

Mr Mazzilli: I'll ask legal counsel to explain that motion for members of this committee.

Mr Bromm: This is another technical amendment. It's simply to correct an inaccurate Criminal Code reference. The statutes in Ontario and probably in all the other provinces aren't always updated as quickly as the Criminal Code is renumbered. Section 736 is an old number from the Criminal Code and we just needed to change it to have the up-to-date reference to the Criminal Code discharge.

The Chair: Is there any further discussion? Are members ready to vote on the government motion on page 12? All those in favour? Those opposed? I declare this motion carried.

Shall section 32, as amended, carry? Carried.

Shall section 33 carry? Carried.

Shall section 34, the short title, carry? Carried.

Shall the long title of the bill carry? Carried.

Shall Bill 86, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? I will do so.

I declare this business closed and adjourned.

The committee adjourned at 1730.

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Also taking part / Autres participants et participantes
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Mr Rick Bartolucci (Sudbury L)

Clerk / Greffier
Mr Tom Prins

Staff / Personnel
Ms Catherine Macnaughton, legislative counsel

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Journal des débats (Hansard)

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Standing committee on justice and social policy

Portable Heart Defibrillator Act, 2002

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Loi de 2002 sur les défibrillateurs cardiaques portatifs

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON JUSTICE AND SOCIAL POLICY

Tuesday 18 June 2002

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE ET DES AFFAIRES SOCIALES

Mardi 18 juin 2002

The committee met at 1533 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr Toby Barrett): Welcome, everyone, to this regular meeting of the standing committee on justice and social policy for Tuesday, June 18.

The first item on our agenda will be the report of the subcommittee dated June 13, 2002.

Mr Marcel Beaubien (Lambton-Kent-Middlesex): Do you want me to read it for the record?

The Chair: Yes, please.

Mr Beaubien: Report of the subcommittee, which I will move:

Your subcommittee met on Thursday, June 13, 2002, to consider the method of proceeding on Bill 51, An Act to help save the lives of Ontarians who suffer from cardiac arrest by promoting the widespread availability and use of portable heart defibrillators in public places; and Bill 74, An Act to amend the Marriage Act, and recommends the following:

(1) That the committee spend 15 minutes on Bill 51 as the first order of business on June 18, 2002.

(2) That the committee then proceed to consider Bill 74.

(3) That the Ministry of Consumer and Business Services and the Ministry of the Attorney General be offered 75 minutes on June 18 to address Bill 74 and to answer questions from the committee.

(4) That the committee schedule public hearings in Toronto in the remaining time on June 18 and 24.

(5) That the committee have one day of clause-by-clause consideration on June 25.

(6) That each party submit a list of witnesses to be invited to appear before the committee on or before Thursday, June 13, at 2 pm.

(7) That the clerk undertake to create a balanced set of hearings from the names provided from the parties and from any witnesses that call the clerk's office directly.

(8) That if there are unscheduled time spots on the agenda, the clerk will seek direction from the subcommittee members.

(9) That the clerk place an advertisement on the Ontario parliamentary channel.

(10) That groups and individuals be offered 15 minutes in which to make their presentations.

(11) That the Chair authorize the payment of reasonable requests by witnesses to have their travel expenses paid.

(12) That the research officer prepare a background paper containing information on other jurisdictions, current practices and other pertinent information.

(13) That the clerk be authorized to begin implementing these decisions immediately.

(14) That the information contained in this subcommittee report may be released to interested parties immediately.

(15) That the Chair, in consultation with the clerk, make any other decisions necessary with respect to the committee's consideration of these bills.

The Chair: Any debate on this report?

Mrs Lyn McLeod (Thunder Bay-Atikokan): I just have a question of the clerk. Were there sufficient witnesses' names presented that we are going to continue public hearings on the 24th, or does this conclude—

Clerk of the Committee (Mr Tom Prins): Yes, and you have the agenda.

Mrs McLeod: For the 24th? OK.

The Chair: Mr Levac.

Mr Dave Levac (Brant): Same question.

The Chair: Any further debate on this report of the subcommittee?

Shall this report be accepted by the committee? I declare this report accepted.

PORTABLE HEART DEFIBRILLATOR ACT, 2002

LOI DE 2002 SUR LES DÉFIBRILLATEURS CARDIAQUES PORTATIFS

Consideration of Bill 51, An Act to help save the lives of Ontarians who suffer from cardiac arrest by promoting the widespread availability and use of portable heart defibrillators in public places / Projet de loi 51, Loi visant à contribuer à sauver la vie des Ontariens qui souffrent d'un arrêt cardiaque en promouvant la disponibilité et l'usage généralisés de défibrillateurs cardiaques portatifs dans les lieux publics.

The Chair: The next order on the agenda is debate on Bill 51. I understand from the report of the subcommittee that we would spend 15 minutes discussing Bill 51.

Mr Peter Kormos (Niagara Centre): Chair, I wonder if you could explain what happened with Bill 51. It's

strange, because it seems to me that this committee spent considerable time on it and now I just find it peculiar that the bill is back before the committee. What happened?

The Chair: Why has it returned to this committee?

Mr Kormos: Did somebody make a mistake?

The Chair: I think I would ask the clerk if he has some details.

Mr Kormos: I trust your word on this, Chair. We don't have to bother the clerk.

The Chair: I don't have the details on this, Mr Kormos. So I would like to ask the clerk for a brief explanation, and then I will go to Ms McLeod.

Clerk of the Committee: The committee did have two days of public hearings on Bill 51 and proceeded with the clause-by-clause process. The committee defeated all amendments to this bill and then defeated all sections in the bill. The committee then reported that the bill not be reported. That report was not received by the House, so the bill is back before this committee and, as the Speaker indicated, it's up to the committee members to really decide how to proceed.

Mr Kormos: As I recall, this committee was at least in Ottawa—am I correct in that regard?—with respect to this bill, at considerable expense to the taxpayer. Then, as I recall it, they were recorded votes. They may or may not have been, because I know I had to be absent during some of the voting. But the government then defeated every section of the bill, including the title of the bill, gutting the bill after spending all that taxpayers' money going to Ottawa, among other places, and didn't even let the bill go back to the House to be considered for third reading, because it's the government that has the power to call. Is that correct? Is my understanding correct in that regard?

The Chair: I attended the hearings in Ottawa.

Mr Kormos: How much money did it cost to travel to Ottawa with the committee? Do we have an estimate of that?

The Chair: We could get those dollar figures in a few minutes, if you wish.

Mr Kormos: I would appreciate that.

The Chair: Shall I go on to Ms McLeod?

Mr Kormos: Yes, sir, please.

Mrs McLeod: I trust that my colleague who originally presented this bill will speak to his frustration with the process that we've been through. But the comment that I wanted to make was, first of all, I'm not sure what it is we're debating since what we have in front of us, technically, after the last round of committee clause-by-clause, is a blank piece of paper. The process that the clerk has just been forced to describe—if any sane person from outside this place was hearing that description, he would be asking the question we should all be asking: what does it mean to virtually take a blank piece of paper and report that it not be reported and have that non-report not accepted by the House and referred back to committee? I've been here for 15 years and I have no idea what we've just done.

1540

But what frustrates me—and my frustration will be less than that of my colleague who proposed this in the absolute conviction that what we were talking about here is exactly what we were talking about in the title that this committee saw fit to defeat, which is that we would be helping to save the lives of Ontarians who suffer from cardiac arrest. The frustration is that that bizarre process is actually reflecting on a bill of this kind of significance.

It would be interesting and rather appalling if we could see the statistics on people who have died of cardiac arrest in potentially high-risk situations that could have been identified, where defibrillators could have been in place, since the committee made a mockery of this bill. I think we need an explanation from the government as to why they have made a mockery of this process.

Secondly, what is this government prepared to do, having turned this into a sham, to take the very serious, important issue of the further provision of defibrillators in public places to some kind of next step? Surely it is now the government's responsibility, having played this kind of game with what started out as a very serious piece of legislation in the interests of the health of Ontarians.

Mr Levac: The concern I have is that when the clerk described the final step we are now facing—and if I'm understanding this correctly, the purpose is to get this back into the House. If that's the case, this debate should be based on what actions we can take to get this bill back into the House. I would be open to receiving direction as to how we can get virtually a blank piece of paper reported back into the House so that we get an opportunity to at least let the entire House know how the bill that was described very eloquently by my colleague ended up becoming a blank piece of paper, so that the entire House, and therefore the rest of the province of Ontario, knows that.

Quite frankly, I would like to know, and need to know, the logic behind, first of all, reporting back to the House—I think I heard this right—that there's no report to be made on a bill that was stripped of its usefulness and then we bring it back into this committee to put it back into the House again. If we're going to do that, what is the purpose? What are we trying to accomplish today? If it's simply to report back again another blank piece of paper, I think we're still wasting time. I would ask for guidance in terms of what exactly we're supposed to be doing right now in this discussion.

Mr Kormos: If I may, Chair, this is rather Kafkaesque. Who was the Chair at the time this happened? Surely the Chair had control of the process and wouldn't let anything as silly and as irresponsible take place as what took place. I appreciate that it wasn't you, but who was the Chair at the time?

The Chair: I can explain. The Speaker in the House—

Mr Kormos: Just who was the Chair? I know it wasn't you, but who was the Chair at the time?

The Chair: The Speaker in the House was the Honourable Gary Carr.

Mr Kormos: No, no, the Chair of the committee.

The Chair: I was the Chair of this committee.

Mr Kormos: Oh, you were? I'm sorry. My apologies.

The Chair: To further explain, at your direction I did present the report of this committee to the House. Circumstances ensued in the Ontario Legislature and I will quote in part from the Speaker, who indicated, "The report will go back to the committee. Those who are members of that committee can then redecide what to do. It is now in the committee's hands.... I understand that this may be one bill that is non-controversial and may have support. If that is the case, then the House leaders hopefully will be able to get together...."

I quote in part as well the Speaker's concluding remarks: "—the committee needs to be able to decide. My hands ... are tied in this instance ... it's back in the committee's hands and it is their responsibility." As I understand it, here it lies.

Mr Hardeman, did you have a comment?

Mr Ernie Hardeman (Oxford): Yes. I didn't have the opportunity to serve on the committee that heard this bill the first time, but I did read the Hansard from all the travelling and the process that the public hearings went through to deal with the bill. I guess it's one of the anomalies that comes out of a process like this. Obviously as a committee you go to hear what the public has to say about the bill. After hearing from all the presenters, it appears that the committee decided, clause by clause, that there was nothing in the bill that they were supporting—

Mr Kormos: On a point of order, Mr Chair: Let's make it clear. It was the Conservative members of the committee who did this to the bill, none of the members of the opposition.

The Chair: That's not a point of order.

Mr Hardeman: I didn't say which members of the committee. The majority of the committee went that way, Mr Kormos.

I have a question on process, as to how one could word a presentation to the Legislature that brings in a bill regardless of what's left of it or not left of it, that would say we are not reporting. Is that not the process of reporting? Would it not have said, "We are reporting what's left," which is nothing, as opposed to saying, "We are not reporting nothing"?

Mr Kormos: Very Nietzschean.

Mr Hardeman: I don't understand the process—

Mr Kormos: I know.

Mr Hardeman: —of the words "reporting" or "not reporting." It would seem to me that at the end of a committee process you always report whatever the committee decided.

Mr Mike Colle (Eglinton-Lawrence): They usually do.

Mr Hardeman: But in this case it's still reporting that the committee decided the bill should not be proceeded with.

Mr Kormos: You guys reported nothing.

Mr Colle: You reported a blank piece of paper. There's no bill left.

Mr Hardeman: The only thing the committee recommended to be proceeded with was a blank piece of paper.

Mr Colle: Yes, right. That's what we still have: a blank piece of paper.

Mr Hardeman: The committee decided that there was nothing in the bill that should be proceeded with.

Mr Colle: Not even the title.

Mr Hardeman: That's what they've decided.

The Chair: Order.

Mr Colle: That's what you guys decided.

Mr Hardeman: That's what the committee decided in a vote.

The Chair: Order, please. I'll go to Ms McLeod. Mr Colle, did you wish to make a comment as well?

Mr Colle: Yes, sure.

Mrs McLeod: I'm glad Mr Hardeman corrected what would have appeared in the record from his earlier statement, which was that there was nothing in the bill—he's now said nothing in the bill that the majority of the committee chose to proceed with—because there was a great deal in the bill. There was in fact far too much in this bill for the government members to be prepared to accept because it was perhaps more extensive. It went beyond what the government felt they would be comfortable with.

However, having sat through much of the hearings on this bill, I want to make it very clear that while there were some concerns with the bill, there was also considerable support for it and a considerable body of evidence presented in terms of the effective use of defibrillators in places where municipalities have chosen to place them and the fact that those defibrillators have saved lives. Those are statistical facts and they need to be recorded on the record again.

It should also be recorded for the sake of this meeting that not only was each clause of this bill defeated but so were Liberal amendments, because my colleague was more than willing to modify this bill. If it went too far for the government to be comfortable with, we were prepared to amend this bill in ways that would have made it something that would at least have taken the process of putting defibrillators in public places. Even if it was just here in this government building, that would have been a first step. It would have been some sign of interest in pursuing what is widely recognized as being in the public interest.

Would it be possible to do it all at once? Were there cost implications beyond what the government was prepared to condone? Yes, OK, but we could at least have taken a first step. It would have been possible to take this bill, to amend it and to put something in place that could be reported back to the House. Even if it was nothing more than, "The Ministry of Health and Long-Term Care"—section 3 that used to be in the bill—"shall develop and publish guidelines on the use and maintenance of portable defibrillators in co-operation with appropriate health and emergency service stakeholders."

How could that possibly have hurt? One of the things we heard was that defibrillators need to be operated under very clear conditions. Why wouldn't the government have been prepared to accept some responsibility for at least putting safety precautions in place?

Mr Chair, unless the government is prepared to reconsider its clause-by-clause consideration—and I'm not sure of the conditions under which we can do that—I would suggest that we draft a report that can be reported to the House. That report should indicate very clearly that this committee, with a majority of government members—and I think those were all recorded votes—voted to defeat each clause and each amendment and failed to put in place any amendments that would allow the bill to go forward.

1550

Mr Colle: I appreciate the opportunity. I should mention in recollection that I know the member from Ottawa West, Mr Guzzo, was very supportive of the concept of the bill, and we had excellent deputations in the city of Ottawa from I think one of the premier paramedic response teams in North America, and that's the city of Ottawa's EMS.

As my colleagues on this side of the House said, the vast majority of people—I think, Chairman, you will recall—were in favour of introducing this life-saving technology, which basically allows portable defibrillators to be used in public places like this precinct. Oddly enough, the other day when one of the members of the precinct unfortunately passed out, one of the Tory members was heard to say, "I wish we had a defibrillator here." We still don't have one here, which is disgraceful.

It was also about putting these life-saving devices in rural parts of Ontario. That's where I thought they really should start, where the emergency response is a half-hour away. It would save lives—at least give people an opportunity to have their lives saved.

I think in many ways this bill is very non-partisan. In fact, based on the deputations we heard here and in Ottawa, I even made amendments to the bill that asked for the government to start some very minor steps toward introducing this type of life-saving technology in public places.

As you know, the committee leadership, the government whip on the committee, I think it was Mrs Molinari from Thornhill, basically was given the orders to vote against everything, even the title of the bill. That's not only an affront to all members of this House; it was an affront, really, to all the people—I mean, we had people come here from Sudbury, from all over Ontario. They made deputations here to be heard. By killing the bill and leaving a blank piece of paper, all of that record is gone. So it's really an affront to the people who in good faith—I know Mr Beaubien will remember—came here.

It was really a travesty, the way this bill was treated in that it was a modest attempt to put something on the public agenda which is good public policy. Really, now that it's a blank piece of paper, I don't think there's any other thing to do but in essence start the process all over again. I think the Speaker indicated this had never happened in the history of this Legislature, where even the title of a bill was defeated. It has never happened.

In fairness, Mr Chairman, I would implore the committee to respect all the people who came here and made—there were medical doctors; I had Judge Monte Harris from Toronto city hall begging us to put defibrillators in Toronto city hall, because he's afraid of people not having this device there. For the first time in the history of the Legislature, a sitting judge was given permission by the Ontario Superior Court to make a deputation, and you're laughing at him too, by the way you treated this bill. Mrs Molinari should be ashamed of herself in the way she disregarded sincere deputations, even defeating the title.

I think the only fair thing to do is to restart the whole process and get the deputants back in here, because in essence you can't now proceed, because you've got nothing to proceed over, because there's nothing here. I don't know how you can deal with, in essence, a blank piece of paper, as everybody said.

The Chair: The subcommittee did report back 15 minutes to this. Very briefly, Mr Levac and then Mr Beaubien.

Mr Levac: There's not much more I can add to what my colleagues on this side have said about the bill itself, but I am concerned that we still need to follow the concept and the precept—

Mr Kormos: On a point of order, Chair: The bells are ringing. I believe this committee must suspend itself in order for members to vote.

The Chair: I think the bells have stopped.

Mr Kormos: The vote has just been deferred.

Mr Levac: Should I continue, Mr Chair?

The Chair: Yes, briefly, and then Mr Beaubien.

Mr Levac: Thank you. I will be brief. I guess my train of thought was to ask the direction of the Chair and clerk as to the directions you read to us regarding the Speaker. Bringing it back to this committee, the implication in my mind was that something needed to be done by this committee in order to forward a report that's acceptable to the House. That being said, I would seek that direction—

Mr Kormos: On a point of order, Chair: What is going on? The assembly just adjourned the House.

Mrs McLeod: I suspect it's been adjourned, which means we probably can't sit, can we?

Mr Kormos: Have you guys not got a House leader? Who has adjourned the House so that this committee can't sit? Who's done that?

Mrs McLeod: Mr Chairman, is it in order to move a motion that outside the hearing we could hear from the witnesses who've come forward today so that we don't lose the benefit of their presentation?

The Chair: I've asked the clerk to confirm what's happening. I don't believe everything I see on television.

Mrs McLeod: I suspect that what's happened is that the Leader of the Opposition has concluded his speech on the budget and that there are no further orders of the day for today. I think we have a dilemma. My concern with

the committee is that we can resume our debate on Mr Colle's bill, but we have witnesses here that I suspect have come some distance to present today.

The Chair: I would like to call a two-minute recess and we'll find out.

The committee recessed from 1557 to 1601.

The Chair: The House did adjourn for the afternoon; however, the standing committee can continue. I would suggest, if there is any further discussion with respect to Bill 51, that it be raised in the subcommittee. The allotted time is completed.

Mr Levac: On a point of order, Mr Chair: To ensure this is correctly handled, that means it will just sit in abeyance until the subcommittee; it doesn't mean it goes away because we've expired the 15 minutes. Is that correct?

The Chair: I understand that this bill is still the responsibility of the standing committee. I would suggest, if there is further discussion, that it be in subcommittee.

Mr Kormos: On a further point of order, Mr Chair: What is before the committee? Is there a bill with a number?

The Chair: I have—

Mr Hardeman: Mr Chairman, upon investigation I find from the Clerk's office that in fact the original bill is back with the committee.

Mr Kormos: What original bill?

Mr Hardeman: Bill 51.

Mr Kormos: How did the original bill come back to committee?

Mr Hardeman: According to the Clerk of the Legislative Assembly, the Legislative Assembly sent the original bill back, even though they didn't have it.

The Chair: The Speaker did indicate that this bill is back in the committee's hands and is the responsibility of the standing committee. Those are his final words.

Mr Kormos: Then I submit that we schedule some hearing dates for it. It's the responsible thing—

Interjection.

Mr Kormos: No. Let's do it here. Let's get this thing going.

Mr Hardeman: In the subcommittee report—and I stand to be corrected—we were to spend 15 minutes discussing this topic, and then we were to move on and have deputations on Bill 74.

Mr Kormos: On a point of order, Mr Chair: This committee is entitled to organize and conduct its own business. There isn't a time allocation motion that binds the committee at this point. The committee is empowered and entitled to set business. I submit that we start setting business for the weeks following next week, when this House may or may not be sitting, to accommodate this bill.

The Chair: With respect to public hearings, I understand that our schedule—there's a good chance we will complete before 6 o'clock; can we return to this item at that time?

Mrs McLeod: In the event that we don't, would you indicate how we will proceed? As I understand what Mr Hardeman has said, this bill is now before committee. It forces a reconsideration of the bill. If we don't get an opportunity to deal with that before 6 o'clock, will you undertake to call a subcommittee meeting so we can arrange—

The Chair: That would be the option. I suggested just previously that it go to the subcommittee.

I declare this order of business closed.

MARRIAGE AMENDMENT ACT, 2002

LOI DE 2002 MODIFIANT LA LOI SUR LE MARIAGE

Consideration of Bill 74, An Act to amend the Marriage Act, 2002 / Projet de loi 74, Loi de 2002 modifiant la Loi sur le mariage.

MINISTRY OF CONSUMER AND BUSINESS SERVICES

The Chair: I wish to call forward the Ministry of Consumer and Business Services. I would ask you to give us your names, please.

Mr Barry Goodwin: My name is Barry Goodwin, director of policy at Consumer and Business Services.

Ms Victoria Vidal-Ribas: I'm Victoria Vidal-Ribas, director of legal services at the Ministry of Consumer and Business Services.

Ms Anne Marie Predko: My name is Anne Marie Predko. I'm counsel with the Ministry of the Attorney General.

The Chair: Please proceed.

Mr Goodwin: Thank you, Mr Chair and members of the committee, for the opportunity to speak to you today about Bill 74. We have some brief comments to make, and then Victoria and myself and our colleagues would be able to answer any technical questions or other questions you may have.

In Ontario, individuals can be married in either a religious or a civil marriage service. Currently, civil marriage services are only provided by judges or justices of the peace.

Bill 74 proposes to add the office of marriage commissioner. Marriage commissioners would provide civil marriage services in Ontario.

Allowing for additional civil marriage service providers would appear to be a straightforward way to enhance the public's access to marriage services. The mechanism to provide this improved access must put in place accessible, well-trained individuals who will provide quality services to the people of Ontario.

To date, MCBS has not been made aware of a significant public demand for increased access to civil marriage services. Over the past several years, the ministry has received only a small number of letters from couples expressing concerns about their ability to find a judge or a justice of the peace to perform a civil marriage ceremony. The majority of them are from couples from

outside Ontario seeking marriage services here in Ontario. More letters have come to us from individuals who would like to become marriage commissioners, who indicate there is a local demand in their area for increased access to civil marriages.

On average, about 66,000 marriages are solemnized in Ontario every year. This figure has been stable for approximately the last decade. Of these marriages, approximately 5% are civil marriages, the rest being religious.

Bill 74 would increase access to civil marriage services through the creation of marriage commissioners. The bill leaves the ministry with some questions and concerns about the framework for marriage commissioners to perform their functions. For example, who should become marriage commissioners, what are the appropriate criteria to become a marriage commissioner and how would marriage commissioners be trained to meet the legal requirements of the civil marriage service? The issue of fees, the appropriate fees to charge and who would determine the amount of a fee would need to be determined.

There is the potential for a lack of solemnity in conducting marriage services, leading in extreme cases to Las Vegas-style weddings, drive-in chapels or skydiving marriage ceremonies. There are some concerns about how marriage commissioners might be remunerated, the registration of marriage commissioners, how compliance with the Marriage Act would be overseen and enforced, how inadequate marriage commissioners would be investigated and disciplined, and how complaints about civil marriage ceremonies would be addressed. This is not at all an exhaustive list but just indicates some of the significant policy and operational issues that will need to be addressed.

One of the Ministry of Consumer and Business Services' important mandates is protecting Ontarians in commercial transactions in other contexts, like public safety. Protecting the public is also an important feature of civil marriage services. Entering into marriage is obviously a serious step with significant legal and other implications for both parties. Of course, most couples entering into marriage see this as a critically important life event.

Proof of marital status is required for a number of legal and financial transactions. Providers of civil marriage services need to ensure that the couple to be married meets the legal requirements for marriage, including being of the proper age, not being intoxicated, not being under duress and so on. If this is not the case, they must challenge the couple and have the fortitude to refuse to conduct the service, if that's appropriate.

Given the significant implications that flow from entering into marriage and the importance that society and most couples place on marriage, the rationale for creating marriage commissioners must improve public access to quality civil marriage services but do so in a way that recognizes the solemnity and importance of marriage in our society, and it must avoid the potential for degradation of the institution of marriage.

Protecting the public interest requires an appropriate regulatory regime for the appointment and overseeing of civil marriage service providers. At a minimum, an appointment mechanism needs to include a set of criteria or qualifications for appointment, an orientation and training plan, a mechanism for performance management and disciplinary action if necessary.

Any process by which individuals are selected and appointed to a position of public responsibility, such as marriage commissioners, that includes the authorization to collect payments and funds for services must be perceived as a fair, transparent, accessible, open appointment process to avoid allegations of conflict of interest or patronage, and the appointment process itself must meet these tests of fairness.

1610

Implementing a regulatory regime for marriage commissioners could involve significant costs and resources to the government. Bill 74 anticipates the appointment of six marriage commissioners per electoral district, or a total of 618 marriage commissioners for the province. This would represent approximately a 30% increase in the workload of the public appointments secretariat, with a similar impact on the work of cabinet and cabinet committees to process orders in council. Additionally, we would need to cost out and consider the expenses in setting in place a governance structure, recruiting appropriate marriage commissioners, ongoing orientation, training and the investigation of disciplinary matters.

Our concern is that it is not yet clear to us that there is sufficient public demand for increased access to civil marriage services to justify such an expense. However, if the government is assured that the government needs to create better access to civil marriages, there are mechanisms to provide such access currently within the Marriage Act. The Marriage Act provides that judges, justices of the peace and "any other person of a class designated by the regulations may solemnize" civil marriages. So the ministry has the capacity to select a specific pre-existing, identifiable group of persons who could be prescribed and authorized to solemnize civil marriages by way of regulation.

There are some advantages to this approach, in that it is more quickly and easily implemented and in that there are classes or groups of individuals that have a governing body or accountability framework that could assist with compliance and disciplinary matters. Most likely this would be a lower-cost solution to the government.

Another option would be to entertain amendments to Bill 74 to provide the appropriate legal framework to the Ministry of Consumer and Business Services to establish a new class of marriage commissioners and the appropriate regulation-making authority to put in place the appropriate framework to regulate marriage commissioners in the future.

If it is indeed the will to increase access to civil marriage, the government has a couple of mechanisms it could use to further that objective, keeping in mind the cost considerations and the issues around public pro-

tection, and the business case would need to be examined and determined by the government.

That's the extent of my prepared comments.

The Chair: Before we commence, in the subcommittee we were allocating 75 minutes. Did you wish to have questions now and then proceed with a continuation of this ministry's presentation?

Mr Kormos: It might be helpful for everybody, including these people, to put them now, unless these people object.

The Chair: Let's proceed. Mr Kormos, then Mrs McLeod.

Mr Kormos: I heard your list of, I guess, caveats, including, who's going to train these people and what about remuneration? I was very interested in your concern about patronage. You should be here when the committee screens appointments to government positions. As a matter of fact, we'll be reading your comments into that committee process.

But who trains clergypeople? Who controls the remuneration of clergypeople? It seems to me that if you don't have a training program for clergypeople—I acknowledge that ordained clergypersons can come from either very sophisticated, complex structures, where there might be internal training within that church about the Marriage Act etc, or I'm well aware of clergypeople from far more informal grassroots types of religions that don't have that hierarchy.

Similarly, remuneration: you don't exercise any control under the Marriage Act over the remuneration to be given to a clergyperson.

Thirdly, you talk about section 24 and the regulation power, and it's true; it's there. Why hasn't the government, for instance, regarded retired judges as a class of persons who could perform marriages? Because all the caveats you issued are non-existent with retired judges. Surely the one thing the ministry isn't saying is that there isn't a demand or a need. I'm talking about demand and need. One, there are people who want civil marriages. You didn't mention the restrictions placed on justices of the peace in terms of access to a JP, and judges have even more restrictions, because judges, as I understand it, have to seek the permission of their Chief Judge or senior judge. Similarly, JPs have to jump through hoops, and JPs, as you probably know, and judges, have got caseloads and dockets coming out of their ears.

Ms Vidal-Ribas: Mr Chair, would you like answers to the questions now or would you like us to hold them until later?

The Chair: No. We'll do some questions now and then we'll go back to the formal presentation. We just like to intersperse it with some questions.

Ms Vidal-Ribas: Thank you, Mr Chair. Mr Kormos, I'll start off on the answer to this question and my colleague Mr Goodwin will help me out.

In terms of who trains clergy, it's a two-stage process to be authorized to solemnize marriage as clergy. First, the denomination must come forward to the Office of the Registrar General and set out a number of things, including what the rites and usages are, how open and transparent the process is, what the training is and so and so forth. So the denomination must first be approved by the Office of the Registrar General.

That step having been taken and the denomination having been approved, then, if for example Barry Goodwin wished to be a solemnizer for a particular denomination, his application would be sponsored by the denomination subject to certain terms and conditions. So the control we have there in terms of public protection, discipline and accountability for the actions of the solemnizers lies with the denomination, and they provide that service on behalf of the solemnizers, and the Office of the Registrar General relies on the denomination.

From time to time we will receive a request from a denomination that someone's authority to solemnize be revoked because they are not performing according to the rites and usages. So we have that control there with the denomination. I think it's fair to say that it is something that the Office of the Registrar General takes a rigorous look at, and denominations have been turned down because of the insufficiency of their process and their materials.

In terms of remuneration, we do have a regulation that provides for a fee of $75. So that is provided for by regulation.

In terms of classes of persons already, with the judges and the JPs there are admittedly certain restrictions in terms of hours for judges and so on. Clearly these are justice officials. My colleague from the Ministry of the Attorney General will speak to the issue a bit more in terms of their obligations to perform justice services such as bail hearings and trials and so on.

We have used the regulations for classes previously a couple of times, I believe, to include people who wish to come into Ontario to provide marriage services. So for example, a judge from out west may wish to come and marry a niece or a nephew here, and we've created a class for that situation.

In truth, Mr Kormos, what we have found is that we have not received in the ministry a demand for these services. In fact, the deputy registrar general has done some research into this, because she is concerned that the marriage services be adequate to the demand out there, and she has looked at the kinds of requests we've had. As my colleague Mr Goodwin has mentioned, the requests we get are largely from individuals who wish to be solemnizers and very minimal requests from individuals saying, "There is no access to civil marriages and we feel thwarted in this regard."

Mr Kormos: I've got the regulation before me. It regulates the fees paid to section 24 solemnizers, not to clergy people. Correct me if—because I have the one reg that regulates fees paid to section 24 solemnizers, but I don't have the regulation that regulates fees paid to section 20 solemnizers.

Ms Vidal-Ribas: Our apologies, Mr Kormos. My colleague is just looking for the reference.

The Chair: I'll go to a second question from Mr Murdoch while we're getting that information.

Interjection.

Mr Bill Murdoch (Bruce-Grey-Owen Sound): I can't believe what I'm hearing from people who work in the ministry. Do you guys work for the ministry or did you just start today? Where have you been? We haven't had anybody marrying people out there for years. The JPs don't do it any more. They just don't do it. They've been ordered not to do it. I guess I should have brought the letter that tells them that. They've been told to do the work they have on their agenda and not to be marrying people.

You're saying you didn't know. I guess that voice mail works really well in your ministry, then. They must just go into the voice mail and nobody answers. I just can't believe what I'm hearing from you people.

There are lots of people out there who can't get married because there's nobody to do it. There is nobody to marry them unless they have a religious ceremony. The JPs don't do it. Who else is there? The judges, and they don't do it either.

I don't know where you guys have been. You mustn't have worked for the last two ministers of that ministry, because I've been on both their backs telling them. If they didn't come back and tell you people, then they're at fault, or if they did, you're not telling me the right thing.

1620

Mr Goodwin: Let me just, if I may, make a clarification. What I said was that very little express demand has come to MCBS, the ministry, from the public.

Mr Murdoch: Very little? My riding must be odd, then, because we're getting all kinds of people. I want to tell you, if you know what the Chi-Cheemaun is, that the captain of that boat says he never does one crossing without having at least one person wanting to get married, and maybe two or three. He can't do it, of course, and there's nobody on the boat to do it, so it can't be done. I get a call at least once a week in my office from somebody who says, "We're at city hall, and they tell us there's nobody who can marry us because the JPs won't do it." So when you get further out in northern and rural Ontario, there just isn't anybody to do it, so they can't get them. That is why this bill was put in there, and I am astounded that you would come in and say this.

I understand some of the things you said about regulations, and that's fair. But I was under the impression, after being at this place for 12 years, that you're better to put in a bill with less in it, because somebody in the government wants to make regulations later, people like yourselves. So those regulations can be done; I understand that. A lot of the stuff you talked about: I understand you have to have fees, you may have to set up—but I don't see where it's going to cost the government a whole lot of money. That was one of the concerns of the ministry, but I don't understand where you're coming up with that.

The whole thing is, I think you've missed the point. There is a problem out there and there isn't anybody to marry them. There isn't. You tell me who they are. You're saying the JPs. Well, they don't do it in my riding and they obviously don't do it in a lot of other ridings, because I've heard the same thing. They can legally do it, yes. I won't deny that they can do it, but they've been ordered not to do it, so they're not doing it. I had a couple that phoned the other day and they live right beside the JP. He said, "I'm sorry, I'm not supposed to do it, so I can't do it." They said, "What are we going to do?" and I said, "Well, hang on for a little while. I guess that's all you can do. Hopefully we can get something through here." So I think somewhere along the line you guys at the ministry have missed it. I didn't think I'd hear that, but we've heard it and I'm telling you it isn't true.

Ms Vidal-Ribas: My colleague has been good enough to clear up the reference that Mr Kormos was interested in. The $75—you're quite correct, sir—is for civil marriages. The remuneration for the clergy is generally a donation to the particular religious institution.

Mr Kormos: I've always seen it put in an envelope and discreetly passed to the clergyperson and he or she then puts it in their breast pocket, feeling to see how thick it is.

Ms Vidal-Ribas: That would be the donation, sir.

Mr Murdoch: There shouldn't be any problem setting the fee. That shouldn't be a big problem.

Mrs McLeod: It's very seldom that anyone comes forward to speak so closely to something you're dealing with in a personal way, but I gather my daughter is a statistic, since she's being married in a non-church ceremony this summer. You're from the registrar general's office directly?

Ms Vidal-Ribas: No, I'm from the legal services branch. I'm a legal director.

Mr Goodwin: I'm the policy director. We have a representative from the registrar general's office with us today.

Mrs McLeod: Because it is under your ministry.

I just wanted to publicly, on the record, express my appreciation to the MPP liaison with the registrar general's office, because she has been enormously helpful in clearing up the confusion around what you have to do. In my daughter's situation it is a United Church minister who is a relative of the groom, who lives in Saskatchewan, who's coming to Ontario to perform the ceremony. There is provision in the act for that to happen, but there's enormous confusion around what has to happen and how to register. I do want to express my sincere appreciation to Vicky, who has taken several phone calls and been most helpful. I wanted to pass that on.

In light of the fact of my daughter's experience, I have to say I'm surprised by the 5% statistic, because in her age group and her friends', I would almost guess anecdotally a majority of people are opting to be married outside the church building, not necessarily in a civil ceremony. That's why I'm wondering about your statistic. If there is a marriage performed outside the church but performed by a minister, is that then considered to be a religious service?

Mr Goodwin: Yes.

Mrs McLeod: Because that would be occurring on a significant basis. When I read Mr Murdoch's bill, it suggested to me that we were fortunate because there was somebody whom they wanted to have perform the ceremony, but I would think in many cases if that option hadn't been there—I know there are judges who prefer not to do any ceremonies outside of their chambers. In my part of the province—I knew a JP once; he's no longer a JP—I wouldn't have known where to go.

I saw by the nodding of heads that there are probably a lot more marriages being performed outside of the church, but if they're performed by a minister because that's who's available, they are considered a religious ceremony. I think that helps to explain why the stats seem so low.

But could you tell me, in light of the training concerns that you have and the criteria for carrying out a solemn ceremony, which obviously are important, what the criteria have been to ensure that JPs are properly trained and sensitive to carrying out a solemn ceremony?

Ms Vidal-Ribas: Let me answer your question in two parts, because you alluded to something a bit earlier.

Marriages that are performed outside of a church can be performed by clergy as long as the denomination's rights and usages permit it. I'm told that we are seeing an increase in ecumenical or non-denominational types of services by ministers who perform those kinds of services and that seems to be filling the need for a great many individuals.

In terms of judges and JPs, both judges and JPs, as you know, have bodies to whom individuals can go if they feel aggrieved, if there's been inappropriate behaviour. When JPs are appointed, because they are officers of the court, they sit as adjudicators, and because we create legal obligations here, they satisfy themselves that the couple does not have an impediment to marry—that they're of legal age, they're not under duress and they're not incapacitated by drugs or alcohol, the usual things.

As to specific training to provide to JPs on this subject, I don't know. I'd have to cede to my colleague from the Ministry of the Attorney General. Certainly we have not seen a significant bundle of troubles with JPs and judges, who seem to take their responsibilities very seriously. We believe it is because they understand the solemn nature of the legal obligations that parties are entering into.

Mrs McLeod: There would be no reason to believe that you would run into any greater problems with marriage commissioners than you would with JPs.

Ms Vidal-Ribas: Marriage commissioners—it would depend on how we defined the class. If it were just any individual, you might have some unevenness in training, unevenness in the understanding of the legal solemnity, of the obligation unevenness and the appreciation for the legal requirements, because there are some very specific legal requirements that a solemnizer must meet. As my colleague indicated, they may in fact be asked to turn away a couple who appear to be under the influence or otherwise incapable of entering into the ceremony, so we would want to make sure, from a consumer protection standpoint, that whoever was in a class of marriage commissioners understood their legal obligations and those of the parties, were prepared to discharge them and were prepared to act in accordance with the legislative—

Mrs McLeod: Which is what you do with JPs now.

Ms Vidal-Ribas: Yes.

Mrs McLeod: So it would be virtually the same kind of thing.

Ms Vidal-Ribas: Yes, and with clergy and with judges, exactly the same kind of thing.

The Chair: Two more questions: Mr Guzzo and Mr Kormos. Then we may want to go back to the presentation.

Mr Garry J. Guzzo (Ottawa West-Nepean): I have a little difficulty here. First of all, I'm not a big supporter of this but I think on a balance of probabilities I would come down in support of Mr Murdoch's bill.

I think I'm reading it properly that 54% of the marriages in British Columbia are performed by commissioners. Interesting. They've been doing it since 1982 and they're up to 54%. I find it difficult with your statistics. I was a judge for 11 years in this province at a courthouse in Ottawa where there were three other judges and a justice of the peace who also did weddings. For 11 years I was obliged to perform my share and that amounted to approximately six a week. I had no training when I started. The justice of the peace had no training, nor did any of the other judges. Maybe we should have had, but we didn't. I find your interest in the training aspect at this point in time—for your interest, I was there between 1978 and 1989.

As far as the solemnity is concerned, one judge who objected to doing them would do his six between 9 and 9:30 on Wednesday mornings—no concern on the part of your department or any other department of this government with regard to the impression that was left by running through six marriages in a half-hour. For those of us who would do them on a lunch hour to try and accommodate people, let me just tell you that I was personally responsible for two illegitimate children because I put them over until Friday afternoon and the children were born beforehand. I, unfortunately, have taken responsibility. Those things happen.

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Mrs McLeod: Partially responsible.

Mr Guzzo: This is getting complicated.

I don't know of any place where the judges or the JPs enjoy doing them, or want to do them. Certainly I don't know of anybody who was ever turned down by a Chief Judge.

Let me also tell you that in the city of Ottawa, which had 700,000 people at the time—and I'm talking about 30 a week at our courthouse. Downtown, at the criminal court, there were 12 or 14 criminal judges and seven or eight of those were doing a number, as well as two or three justices of the peace three or four miles away in the downtown part of the city. So in the 1980s in Ottawa there were a considerable number being performed.

When I went out of town to sit outside the city, particularly in the rural communities, I oft-times would come in with a combination list and find a marriage on the list in Pembroke or Cornwall or Kingston or Brockville, places like that. I was never surprised on a one-day visit, and if you were there filling in for a judge on a weekly basis, oft-times during the week you would perform two or three in Brockville or Kingston.

So I have a little difficulty with the information, I have a little difficulty with the statistics and I have a little difficulty with the training issue. I suggest to you that even today the question of the reverence being shown by the people performing them in a very minute number of cases should be called into question.

I know the demand is there, and I know it's becoming more and more difficult for people to arrange, certainly within the time schedules that they want. I can't help but think that the time has come for this government to meet that demand. I have no difficulty putting restraints on the way in which they're done, but I think we have an obligation to meet that demand.

Mr Kormos: Clearly Minister Hudak has been briefed on this.

Ms Vidal-Ribas: Yes, he has.

Mr Kormos: And he approves of the position you're taking today?

Mr Goodwin: Minister Hudak is relying on the information that comes to the registrar general in terms of the expressed public demand or lack thereof. He is aware of that and is supportive of our information brought to you today. He also shares the concerns that if people are convinced that increased access needs to be provided through the establishment of marriage commissioners, it needs to be done in a rigorous way with the appropriate controls.

Mr Kormos: In other words, you read him the same submission or let him read the same submission you have made here today.

Mr Goodwin: Yes, the minister is aware of our submission today.

Mr Kormos: And he knew that it was in preparation for Mr Murdoch's committee hearing regarding Mr Murdoch's private member's bill?

Mr Goodwin: Minister Hudak was aware of the purpose of the presentation and the forum, yes.

Mr Kormos: And he was conscious of the fact—and I refer to section 7 considerations here—that your report to this committee was one that effectively recommended against the bill?

Mr Goodwin: I think our presentation stops short of making that specific recommendation. We spoke about the lack of expressed consumer demand for increased access to civil marriages and we spoke about the existing authority that the ministry has under the Marriage Act to use the regulation that we have now. But I don't bring a recommendation from the minister with respect to what happens to Bill 74.

Mr Kormos: Why did you raise concerns about section 7 of the act? Lay people, in any number of positions, are entitled to express opinions about the sobriety or level of inebriation of other people, and they do in many contexts. The kid at the service station has to refuse me gas if I'm drinking or drunk; the clerk at the LCBO. I could go on and on.

Mr Guzzo: The bartender.

Mr Kormos: Yes. The bartender has to cut me off. So all sorts of lay people are entitled, without any special training, to form conclusions about somebody's drunkenness. I appreciate that mental illness is there as well, but you're not suggesting to me that clergypeople or judges or JPs have any specialized training about mental illness, so I'm curious about your waving red flags around section 7 here.

Why isn't a commissioner, who undergoes a screening process by the ministry entitling him or her to perform marriages, capable of being assessed as to whether or not this person is responsible enough to know when somebody is showing up drunk before them? Just like the marriage licence issuer has to be responsible enough not to issue a licence to drunks—not that it has ever happened, I'm sure.

Mr Goodwin: I'll defer to my colleague in a second, but the consideration is that, for the most part there is a fair bit of lack of definition around the role of the marriage commissioner position that would be created. There is a context that's assumed for judges and justices of the peace in terms of the framework within which they work.

If there is indeed a will to increase access to civil marriages, our point is that it needs to be done in a way that provides the appropriate legal framework for that to be completed.

Mr Kormos: Did you study other jurisdictions, including British Columbia, before you reported this matter, and the fact that most Canadian jurisdictions have commissioners?

Ms Vidal-Ribas: Yes, we are aware of that.

Mr Kormos: Do you find their procedures for training, evaluating and assessing the performance of applicants to be appropriate?

Ms Vidal-Ribas: We haven't assessed the appropriateness of their training and so on. We have consulted with them as to how they find the experience. I think it's fair to say, subject to my colleague confirming this, that it has been a mixed experience across the country in terms of how workable it is.

To reiterate my colleague's comments, the only concern we bring before this committee is, if we are going to do marriage commissioners, that we put some parameters and safeguards around this so the public is protected and there is a level of expectation of service and quality of service.

Mr Kormos: I believe that people who live together in an intimate relationship, where not only their lives but their finances are intertwined, and even more so when there are children, should be married because there are all the ethical considerations, but importantly, from my point of view as a lawyer, they can't access the Divorce Act

and they can't access and utilize certain sections of the Family Law Act.

Surely this government isn't discouraging people in that position from being legally married, nor does the government want to put an impediment to people. I think it's incredibly important. We're liable to hear stories from witnesses about the fact that some people are actually living together—again, I'm not as interested in the "living in sin" part as I am about the horror show it creates for the rights of those parties from a practical point of view in terms of not accessing the Divorce Act and certain sections of the Family Law Act. Why isn't that a valid concern?

Ms Vidal-Ribas: It is a valid concern. That is our concern around parties understanding the solemnity of the contract they're entering into and that the solemnizer is in a position to assist with that understanding to the extent possible.

Mr Kormos: Thank you kindly.

The Chair: Mr Hardeman, a question. Following that, I think we should hear the presentation from the Ministry of the Attorney General.

Mr Hardeman: Just a final question. I'm sorry I missed it. You spoke earlier about the fees that are allowed to be charged. For the clergy, most of those are in the form of a manila envelope going under the door.

Ms Vidal-Ribas: It's a donation. That's general.

Mr Hardeman: If the clergy get the donation, how does that work when the majority of the civil ceremonies are also performed by the same clergy?

Ms Vidal-Ribas: They are clergy who are authorized under the auspices of their denomination, so there is the link back to the denomination.

Mr Hardeman: Is it your suggestion then that the majority of those civil services performed by the clergy are also done based on a donation to the church?

Ms Vidal-Ribas: That's my understanding. Let me just confirm with my colleague from the registrar general.

Mr Hardeman: Of the ones I know, there are a number who will do it outside the church, but then it's totally removed from the church.

Ms Vidal-Ribas: Then it isn't a civil ceremony. It is a religious ceremony performed outside of a church location. But it continues to be a religious ceremony because it is performed by a clergyperson.

Mr Murdoch: Only because it's performed by a clergyperson. There are lots of them done and they don't use any religious remarks.

Ms Vidal-Ribas: But they're doing it under their authorization as a clergyperson.

Mr Hardeman: My question really is, is there a system in place that regulates the cost of that?

Ms Vidal-Ribas: Not currently for clergy, no.

Mr Guzzo: On a point of order, Mr Chair: I just want to make it clear that I did not endorse my colleague's comment with regard to retired judges being authorized to do them.

Mr Kormos: You'll have to run that past me again. You surprised me here.

Mr Guzzo: I'll get kicked out of the union if they think I'm endorsing that.

Mr Kormos: You come talk to me. We'll take care of you.

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MINISTRY OF THE ATTORNEY GENERAL

The Chair: I would now ask Ms Predko—a presentation on behalf of the Ministry of the Attorney General.

Ms Anne Marie Predko: Good afternoon, ladies and gentlemen. I'd like to, first of all, express my appreciation for your inviting the Ministry of the Attorney General to attend these committee hearings about Bill 74, a proposal to amend the Marriage Act to provide for marriage commissioners. I have reviewed the bill and I'd like to make a few specific comments in addition to those made by staff from the Ministry of Consumer and Business Services.

First, I should explain that I am counsel with the policy branch of the Ministry of the Attorney General. My primary area of policy responsibility is family law. In that capacity, I'm familiar with trends and policy considerations relating to marriage as a method of forming and recognizing adult partnerships and also as the union into which most children in Ontario are born. I've spoken with my colleagues as well in the court services division of the Ministry of the Attorney General, and I am prepared to also address this committee's interest in the performance of marriage by justices of the peace and by judges.

First of all, I just want to make a few brief comments about the legal structure of marriage. As this committee is no doubt aware, under the Constitution Act, jurisdiction over marriage is divided between the federal and provincial governments. The government of Canada has jurisdiction over a head of power called marriage and divorce, which has been interpreted to mean that the federal government defines who has the capacity to marry and also determines the law and procedure with respect to divorce. The provinces have jurisdiction over the solemnization of marriage, meaning that Ontario law defines the persons who may perform marriage, the authority under which they may perform that marriage and the form of the civil ceremony of marriage. All of that information is laid out in the existing Marriage Act.

Religious marriage ceremonies, as has already been discussed, must conform to the requirements of the religious body to which the religious leader belongs who's performing the service. As Mr Kormos pointed out, the law of the province of Ontario also deals with some of the fallout of relationship breakdown, when a marriage relationship breaks down. At its most basic level, a marriage is a contract between two persons who have agreed to share their lives with one another. Most marriage ceremonies feature the exchange of property. In

the case of a Christian marriage ceremony it's in the form of the rings that are exchanged.

Marriage is also a societal concept which is protected by a number of statutory provisions within Ontario and in other jurisdictions. Just a couple of examples: a person cannot be compelled to divulge any communication made to him or her by his or her husband or wife under section 11 of the Evidence Act of Ontario; also as I mentioned, in Ontario only a married spouse is entitled to a share in the value of property owned by their spouse in the case of relationship breakdown.

As many of you have already commented, the Ministry of the Attorney General has another area of interest in the proposed amendment to the Marriage Act. Under section 24 of the current Marriage Act, a judge or a justice of the peace may solemnize a marriage under the authority of a licence. Anecdotal evidence indicates it is now less common for JPs to be specifically scheduled to perform marriages. In most or possibly all courthouses, times are no longer regularly scheduled for marriage ceremonies.

I'd like to make a few comments about the scheduling issue. First, it's important that we have a common understanding at this committee about the limits of each branch of government's influence over this issue of scheduling judges and justices of the peace. In our parliamentary democracy the judiciary, the executive and the Legislature all have separate and distinct roles that they carry out. I like to think of them as three distinct but interconnected spheres of decision-making authority. In essence, what section 24 of the Marriage Act does is create a discretion for judges and justices of the peace to perform marriage. That discretion is within the decision-making authority of the judicial branch of government. What that means from the Ministry of the Attorney General's perspective is that the scheduling of judges and justices of the peace is not something over which the ministry has influence.

It is my understanding, from talking with people who are more familiar with the issue in the court services division, that faced with competing demands on finite resources, senior members of the judiciary who are responsible for the overall scheduling of judges and justices of the peace have made a policy choice that judicial functions, particularly for justices of the peace, are to be preferred to non-judicial functions. What this means is that faced with demands for justices of the peace to sit, for example, in highway traffic court or to sit in bail court, if they have those types of competing demands, it is preferred that they perform judicial functions rather than non-judicial functions. This decision is within the judiciary's discretion.

It's also my understanding that we are not hearing in our ministry—and I don't want to repeat the same thing again—of a high level of unmet demand for civil marriage. That does not mean it does not exist. We are reporting in our court services division three to four telephone calls per year requesting civil marriage. That's at the level of the ministry in Toronto, not in the local courthouses.

The Ministry of the Attorney General is not opposed to the expansion of the classes of persons who can perform marriage. We concur with the Ministry of Consumer and Business Services that the expansion of this service is possible within the current wording of the statute. We would also like to see that any person who's empowered to perform marriage should have the following characteristics: that they would be of good character; that they understand the Marriage Act and the common-law rules surrounding capacity to marry; that they be regulated in some form so that complaints about conduct can be addressed; and that they participate in training and education relating to their role in the solemnization of marriage.

I appreciate the honourable member's comment, Mr Guzzo, that as a judge he's not aware that justices of the peace may have participated in training, though there is a requirement that judges obviously have legal training in terms of their ability to understand the statute. It's my understanding that JPs as well do get basic training in terms of statutory understanding. It's not directed specifically to the issue of marriage, but it's certainly our position that those particular judicial officials are equipped to meet these characteristics.

Subject to your questions, those are my comments. If I can't get the information for you today, I'm happy to return it to the clerk and he can provide it to committee members.

The Vice-Chair (Mr AL McDonald): Mr Murdoch.

Mr Murdoch: After listening to you, I would be safe in saying in public that the Ministry of the Attorney General has no policy as to whether JPs should marry people or not?

Ms Predko: That's correct.

Mr Murdoch: There have been no letters from the Attorney General to JPs saying they shouldn't do this?

Ms Predko: From the Attorney General, no.

Mr Murdoch: JPs, who are basically under the auspices of the Attorney General, then, are quite easy about going out there to marry people. I wonder where they got that idea. There must be some misinformation going out into the public.

I don't have it with me, but when we started this whole process, I was informed by the Attorney General's office that the policy was that JPs were discouraged by the Attorney General's office from doing marriages. That was one of the main reasons I proceeded, because in our area JPs tell me to my face that there is a policy within the Attorney General that they're not to marry people. They can, but the policy is that they shouldn't because they have other duties to do. So you're saying that's not true.

Ms Predko: I'd like to see the letter. I'm not going to say to you it's not true because obviously the letter could exist.

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Mr Murdoch: There doesn't even need to be a letter. I just need to know whether there's a policy or not. If there's no policy, then I'm quite easy to go out tomorrow

and say that I talked to the Attorney General's office and they informed me there is no policy toward JPs. They are quite free and willing to go and marry people and they should—

Mr Guzzo: What the contributor is saying is that it's from the AG; it's probably from the judiciary.

Mr Murdoch: We're just talking about JPs.

Mr Guzzo: They're subject to the judiciary. They take direction from the judiciary.

Mr Murdoch: Well, we will have to go after them for that.

Mr Guzzo: Let me assure you that the JPs have been so advised. I would have thought it came from the AG as well, but it probably came from the local judiciary.

Ms Predko: As I understand it, if I can just clarify, JPs are scheduled by their local regional senior justice and that scheduling is then delegated to the local regional senior justice of the peace. Then locally there may be some flexibility in terms of their scheduling, mostly because of demand for their other services. It is perfectly possible that they have a directive within the judiciary. My concern is that the judicial scheduling decision is completely within the power of the judiciary, how they decide to schedule resources. There is a known lack of resources for justices of the peace. There is an ongoing justice of the peace review at this point in time. It's not unknown that there's a justice of the peace resourcing issue. It's possible, as a component of that justice of the peace review—there has been discussion about what would be an appropriate categorizing of resources, but certainly it is still always within the authority of the judiciary to schedule their members. It's not something that's within the power of the Attorney General.

Mr Murdoch: They could do it on a Sunday afternoon. There are not many court—they won't do it. I don't know of too many JPs who will do it.

Mr Guzzo: Time and a half for overtime.

Mr Murdoch: They won't do it.

Mr Guzzo: The Prime Minister doesn't mind calling in justices of the Supreme Court of Canada on a Sunday afternoon when he reshuffles his cabinet.

Mr Murdoch: I understand that.

Mr Guzzo: Did they get time and a half?

Mr Murdoch: My problem is that the perception, if you want to say, is out there that the Attorney General's office has discouraged JPs from doing marriages. We got that impression from the Attorney General three years ago. I'm not saying it's the same now, but that's what we were told in my office at least more than once. If that's not true, though—I hear what you're saying: it may be coming from the judicial thing. Maybe we have a problem here: who's running what?

That seems to be one of the biggest problems out there. There is absolutely nobody to marry people who want to have a civil marriage. Two weeks ago I had a mother phone. She lives beside a JP and that person wouldn't do it. He said, "I've been discouraged not to do it." I know of a new JP who has just been appointed. I told them to phone that person. They had already done that. They said no. Where it's coming from, I don't know. But if you're saying it's not specifically coming from the Attorney General's office, then I guess we have a problem. But that's what's out there and that's the perception.

If that's it, that's fine; I can live with that. That's why we have a bill here that can help solve that problem. I appreciate the fact you're not against the bill. So that's good. But I'm just saying there is a problem out there. That's about all I have to say on that.

Mr Kormos: I noticed Mr Barrett had the poor luck to be absent when the classroom monitors came in from the House leader's office and were taking attendance. I hope he doesn't get a failing mark as a result of it.

Thank you very much, Ms Predko. I appreciate all of your submissions here and I understand you've got to do what you've got to do when you come here.

I'm interested in subsection 24(2) where it restricts a judge to his or her office between the hours of 9 and 5. By inference, then, were JPs not to be operating under a direction, presumably not from the minister because that probably would be perceived by them even as interference with their independence—but I appreciate a senior judge, a senior JP, and the directive role they have. Are JPs not restricted then? Is that the only inference to be drawn there?

Ms Predko: JPs are not restricted. They can perform marriages at any time of the day and at any location.

Mr Kormos: I really don't know what the rationale was for judges. Was it to convenience judges, the restriction of 9 to 5 and in the office, so that you wouldn't even think of calling upon them to go out there on a Saturday afternoon? What was the reason for subsection (2)?

Ms Vidal-Ribas: We don't have the history for why subsection 24(2) was put in.

Mr Guzzo: I'll make it clear. It was at the request of the judges to limit it. But I don't know of anybody who has ever turned down permission to go out on a Saturday night to a hotel or to a golf club and do it. The fact of the matter is that you would have been doing one a weekend and it was the pressure of, you know, if you do it for one, do you have—

Mr Kormos: Ms Predko, one final question: I have seen a number of manuals. The most recent one I've seen is the stuff people have to study for firearms acquisition certificates, the stuff people have to do for boating, administered by any number of ministries, where they read the manual and there are sample tests and multiple-choice answers—a driver's test and the preparation for that. I could just go on and on to the sort of things that regular folks have to self-study and get tested on. The Marriage Act is relatively straightforward, isn't it?

Ms Predko: It's relatively straightforward, yes.

Mr Kormos: There's not a whole lot of case law around it. There hasn't been a whole lot of litigation. I've got an annotated version and there's only one section that's annotated. That's section 31, "Marriages solemnized in good faith." So there's nothing contentious in there. Stuff is pretty straightforward and clear. Why

couldn't that be studied in a manual similar to the boating manual that people who want to operate power boats study and then have a test administered by the appropriate ministry with multiple choice? Wouldn't that be more than adequate to test somebody's familiarity with the act?

Ms Predko: Our position is that people should engage in training and education. I'm not saying what form that training and education would take. I'm certainly not in the position to know what training and education MCBS is requiring from their current solemnizers. From my perspective, I wouldn't want to express an opinion in terms of the policy choice.

Ms Vidal-Ribas: In terms of the training, we agree with the Ministry of the Attorney General that there ought to be some form of training. I can tell you that for some of the things you have referred to, Mr Kormos, you must have 10 hours of instruction for a firearms acquisition certificate, now known as a possession and acquisitions licence, and that's for each class of licence that you get. So there is a minimum training requirement. I think both ministries' position is simply that if the choice is to go with some form of marriage commissioners, we ought to work on what an appropriate training mechanism should look like, how long it should be, whether it's self-study or classroom study. But there ought to be something.

Mr Kormos: Do any of you have a preference about terms rather than for-life appointments? If you take a look at the other jurisdictions you will see they are appointed for fixed terms. Do you have a preference?

Ms Predko: The bill provides for a fixed term.

Mr Kormos: But do you have a preference?

Ms Vidal-Ribas: My advice to the minister would be that a term would be preferable from a regulatory standpoint. Certainly in other areas, with one exception, within the ministry we prefer to have terms. It allows for renewal and for revisiting of the qualifications if there is a difficulty with the individual or their capacity. It allows for an easier mechanism. Life appointments get into a whole messy area of the law, as you know, sir.

Mr Kormos: In terms of removing somebody.

Ms Vidal-Ribas: Yes. So that would be my advice to the client.

Mr Levac: My questions tend to be more of what-ifs and clarifications. Do I take it from both of your presentations that I'm hearing it isn't a ringing endorsement of the particular legislation but it also is not a rejection of the bill before us? Is it fair to characterize it that way, that it's not a ringing endorsement and is also not necessarily saying you're against the bill?

Mr Goodwin: I guess I'm uncomfortable with being characterized as supporting or opposing this particular bill. What I'm just trying to bring to your attention is that the way the bill is currently drafted, it leaves open a number of very important issues and questions about which we have concerns about the role of marriage commissioners.

1700

Mr Levac: That's fair. That leads me to the next question. In terms of what you've been saying—and both deputations have referred to this—the three to four phone calls you are receiving and you don't see there's an actual swell of need for a commissioner at this particular time, what research have you done and investigated in a backwards way to supplement that concern if indeed we're hearing from Mr Murdoch that communities he's been familiarized with seem to be saying the opposite? Is it based on, simply because you've received only three phone calls, therefore there isn't a need?

Ms Vidal-Ribas: We've done a couple of things. When Mr Murdoch raised this issue, and he has raised it, as he rightly points out, previously with other Ministers of Consumer and Business Services, we did go back to see, was this an anomalous year, did we have a lot of demand in previous years? We haven't seen a pattern of demand over the years.

What we did within the ministry was write to clergy and say, "We have this issue of marriage commissioners that's been brought before us. How do you feel about it? Do you think there's an issue?" I believe we've had about 70 responses, and they seem to be evenly divided in thirds: roughly a third of the people who don't care and don't have a view, a third of the people who are opposed to the concept and a third of the people who support the concept. That's the additional work we've done, in addition to going back.

From time to time, of course, people will go to clergy who will say, "No, I'm afraid I can't marry you" because of whatever reasons and—

Mr Levac: Do I assume that's mostly denominational or mostly clergy that you've been making that contact with?

Ms Vidal-Ribas: Yes, it is.

Mr Levac: That seems to actually go down a different silo than what Mr Murdoch's trying to fill. What I'm getting at is the very specifics of those people who don't necessarily want to use denominational, don't necessarily want to use clergy.

Ms Vidal-Ribas: No, we haven't gone out to chat with the public around this.

Mr Levac: Right. I sense that there's some type of gap between the information that's necessary to support Mr Murdoch's contention and yours that maybe you're not receiving it. In other words, it's not getting to you but it's getting to him. There seems to be a gap there in fulfilling that. If that seems to be the case, and I wouldn't doubt that, we need to fill that gap. If that gap is going to be filled by this bill, the question I'm asking then as a follow-up is, for you to have a ringing endorsement of this you're basically saying, if I'm getting this right, that it needs to have in place the concerns you've outlined today: the concept of accountability, costs, effectiveness, avoidance of patronage, training and all of those things. If those things get filled in, then support could come from both ministries.

Mr Goodwin: If those issues are addressed, I don't think the ministry would object to increasing access to

civil marriage services. The one issue you didn't mention was just with respect to the quantum, the level of demand, and having a more accurate sense of that. Is the proposed approach of six marriage commissioners per electoral district commensurate with the demand or, as is the case in British Columbia, could this be a social trend that takes a decade or two to fully develop so there are high levels of demand? We're concerned that at this time, based on the information we have, demand may not support that kind of large-scale response.

Mr Levac: I appreciate that. That actually answers the question about whether or not we're finding the information to plug it in. It might be three commissioners, whatever, with the information provided.

Finally, getting some of that clarification—well, I'll leave that for another day because it actually doesn't cover off my next question.

The final question I would have is in support of Mr Murdoch's attempt to find these commissioners to free up the judicial concept. There was a concern raised, I believe, about the choice between judicial versus non-judicial for the work of the JPs. Would that not simply take care of that issue and not have to have these letters, no matter where it's coming from, so that they can focus on the judicial?

Ms Predko: It certainly would appear to address that issue. Without consultation with the judges and the justices of the peace, we don't know that that would be their preferred solution. It's an issue that requires some consultation with the judicial officials as well. But as you can see now in the act, they're simply authorized to perform marriage—they may perform marriage—and it's not a closed class in terms of other people performing marriage.

Mr Levac: The creation of the commissioner wouldn't stop the judicial from saying that anyway.

Ms Predko: No.

Mrs McLeod: One brief question of the Attorney General's office: I have known a couple of situations where judges have performed weddings on weekends outside of their chambers. They'll be nameless until you answer my question. Are they technically in breach of the law or are there provisions that can be made to make that acceptable?

Ms Predko: I was a little concerned about that myself when Mr Guzzo said it was occurring outside of chambers and outside of these hours. It's a difficult question. From my perspective, as I read the statute, it's not permissive. It says it "shall" take place in chambers between the hours of 9 and 5. Marriages performed outside those hours would be irregular in one sense. I don't think they would be void or voidable; I just think they would be irregular.

Mrs McLeod: I'm ready to move passage of this bill and send it to the House immediately. I think we're all right now, thanks to Victoria.

The Chair: I'll go to Mr Hardeman.

Mr Hardeman: First of all, looking back at my past, it would seem much more important that we provide better training for people getting married than for people performing the ceremony. We'd likely all be well served with that type of an approach, I would think.

I just wanted to quickly say, with tongue in cheek, how do you measure and survey the rate of people who think they are appreciative or think they got a good job done in their marriage ceremony, who are satisfied with the performance, compared to using a JP, using a judge, using a—obviously for a good marriage you only use one of the options. How do you ask people which is the best option?

Ms Vidal-Ribas: Somewhat facetiously, I'd be inclined to ask very shortly after the ceremony.

Mr Hardeman: Thank you. The one thing I did want to ask in seriousness has to do with the comment that my good friend Mr Murdoch suggested about JPs not doing it. Going to the scheduling, you said the judiciary schedules the JPs' time and they give a preference to the legal part of their job as opposed to the marriage side of the job. Then, in essence, they're eliminating the ability of the JP to perform marriages—not telling JPs they shouldn't but just not providing time to do it. The question is, can they schedule doing marriages beyond the time the judiciary scheduled their job, and if they can, is there no limit as to what they can schedule beyond what the judiciary scheduled for them?

Ms Predko: Certainly justices of the peace can perform marriage in accordance with the statute outside of regular court hours. The statute is permissive for them to do that. I'm not clear on what sort of controls regional senior justices could exercise over justices of the peace, if they have an established policy, for example, that JPs will not perform marriage. I'm not aware of such a policy, but it's not clear to me what methods of control regional senior justices would have over their JPs outside of regular office hours. From the straight reading of the statute, not knowing what power the regional senior justice might have over JPs, it's certainly possible for JPs to perform marriage.

Ms Vidal-Ribas: Mr Hardeman, in answer—serious answer—to the first part of your question, we don't have a systemic way of getting client satisfaction. To the extent an individual is happy and they tell us, that's great, and if they're unhappy and they tell us, then we know, but we don't have a system in place.

The Chair: Seeing no further questions, it is time to wrap up this testimony from the two ministries. I wish to thank the representatives from consumer and business services and also from the Attorney General.

We have three more delegations. We have an allotted time of 15 minutes for each. I would ask the delegations, if they wish to do so, to leave a bit of time for questions from committee members during that 15-minute period.

1710

REID SCOTT

The Chair: For our next presentation I wish to call forward His Honour Judge Reid Scott, retired. Good afternoon, sir, if you wish to proceed.

Mr Reid Scott: My name is Reid Scott. I'm a retired provincial court judge. I reside in Fenelon Falls and have since I retired in 1991.

I am very much in support of the bill. I have been in Fenelon Falls now for approximately 11 years as a retired judge. I carry on a mediation and consultation business there. With respect to the issue raised here, of the need, I can assure you that the need is very real and very necessary.

I have received every year at least 40 or 50 people who wish to get married, and I have to explain to them that, being a retired judge, I am unable to do so. That's why in one of my letters to one of your members I suggested that you might consider including in section 24 retired judges as those eligible to perform marriages.

There are two or three areas where we have difficulties. Years ago, when I was at city hall, we performed marriages every Friday afternoon for three or four hours in the old city hall. We had some very strange groups, some very interesting groups and some very serious groups. Some of them came with everybody completely decked out and with flowers, as though it were a completely formal wedding. The only thing they wanted at the end was a picture of me with the bride on one side and the groom on the other. These were largely new Canadians coming from countries where the state was very important. They then would take my picture with the bride and groom back to their church and have their own ceremony in their own way. They took the view that the state had in effect sanctioned their marriage and they were very glad to get that.

Gradually our duties were reduced by the ministry. They cut down the hours when we could do it, and when they said we could only do it during our chamber time, we just gave it up, because by the time you have reviewed judgments, preliminary reports, sentencing reports and everything like that, it would just be a ludicrous situation to adopt. So we don't do it.

In my own area of Fenelon Falls, which takes in Victoria county, Haliburton, Muskoka and areas like that, we have a very strong demand. I say that because many of our young people do not attend church and the churches are reluctant or will not marry people who are not members of their congregation. They are very busy with their own duties and are unable to accommodate them, so we get a very large number of people who would like to have a civil ceremony. As I've explained, I've had hundreds since I've been up there and have had to turn them all down, so there is a very real demand for it.

The problem that arises is that the refusal of the clergy to perform the ceremony doesn't stop the hormones. These young people all just simply live together, have children, and then when they have a fight and a breakup, it's catastrophe all over the place and enormous difficulties in trying to resolve it. Some have been very violent and dangerous, and we have had to try and deal with them as best we can in that capacity.

Mr Murdoch is absolutely correct: the reason they're not phoning the Attorney General is because, to phone Queen's Park, you need to have a copy of Gone With the Wind with you when you ring the initial number. By the time you go through all the permutations and commutations from one division to another, you almost could have read Gone With the Wind. I can well understand why individuals don't call Queen's Park.

With young people it's very important, in my view, to get them married and into the system. Once they are married, various jurisdictions have done a pretty good job over the years in codifying what takes place on a dissolution of marriage as to custody, division of assets, pensions etc. None of that is available to people who break up and are unmarried and it's a true tragedy. For example, a wife has no interest in the house unless it's in her name. Custody is always a difficult and very tragic problem, as well as support. There are some ways they can appeal these to the courts, but it's extremely expensive and very cumbersome. I don't know of a single one that has worked properly.

Another group that I find very anxious to use civil marriages is the elderly. Victoria county has the highest per capita rating of people over 65 in Ontario. Most of them live in residences etc. Many are widows and widowers. They meet each other, would like to marry and spend their twilight years together. There's still unfortunately a bit of a stigma about not being married and yet they have no way of becoming properly married.

The reason I'm so interested in younger people is that I took one term on the board of education a few years ago in our area only to do the amalgamation of Muskoka, Haliburton and Victoria into the Trillium Lakelands District School Board, which is now the size of Prince Edward Island. But we did complete it properly and legally. I found there that by the time children reach school, their outlook on life has pretty well been predetermined, as the Mustard report and countless others show. It's really a matter of good parenting, and a person can do that if he has the power to marry them through pre-interviewing and discussing etc. That is in an area where I have taken a great deal of interest.

I might say, by way of JPs: for example, Peterborough JPs will not perform any weddings at all in their community of 90,000 people. In Victoria they don't do them either. They simply have no time. They are so burdened down with their other duties that they just can't get around to it; or, if they can, it's sort of a quickie, in the door and out the door. It's a revolving door and it's very unbecoming to the important issues of marriage.

I am highly supportive of the bill. I think demand will increase. The reason you don't know about it or the ministry doesn't know—I hardly think anybody would have the courage to call the ministry. But the need is there. The advantages are great. I do not believe it would be very expensive to the government, since they already have a comprehensive system in place governing this whole area, and it would be extremely useful.

1720

I must compliment Mr Murdoch. When Jim Flaherty was Attorney General, he had brought forward the idea

of retired judges being admitted to the category, but then there was a ministry change—you know these things happen—and it disappeared. I had spoken at great length to his executive assistant, who agreed completely with me and was going to take it up with the minister and urge him on, but he was changed to another ministry before it could be done.

There is a very real need for this and it's going to grow because Canada is going to grow by immigration, not by birth. Our birth rate is too low. You're going to get all these people from other countries who will not be familiar with our system and the ability for people other than—judges can't do it at all. We just gave up and said, "No. If you're going to stick it to us for a few hours in our chambers, we won't do them at all." JPs will not perform them because they don't have the time. They're burdened up to their eyes. The courts are clogged. They're like meat markets.

The civil answer is a good one. When I heard all the regulations they were thinking of, I had a little bit of concern, but I can see where regulation of some sort would be required. I thoroughly congratulate Mr Murdoch on his initiative and the members who have already indicated they will support it. I have reams of material, but I don't want to bore you with it. I'd sooner take your questions.

The Chair: Thank you, Mr Scott. I have one question from Mr Guzzo.

Mr Guzzo: Your Honour, it's great to see you again and looking so well. Thank you very much for your words of wisdom and your written submission, which has been forwarded to us, your letter of June 11 to Mr Kormos. I simply wanted to say to you that if you're having trouble filling up your hours, the new Premier is always looking for candidates, and we have a precedent now in this province for former judges to run.

Mr Scott: Our sitting candidate is Mr Chris Hodgson. I don't know whether the Premier would pay for me to seek to unseat him as a Conservative representative. I've already turned the Liberals down, so there you are.

Mr Guzzo: I have one question for you. It relates to the last paragraph of your letter, where you commend Mr Kormos for his work. I really have to ask you, did he ever appear as a counsel in your court?

Mr Scott: No.

Mr Guzzo: You see, he did in mine, and I have to tell you this: that's why I worked so hard to send him back. He was an excellent lawyer and he did an excellent job. I think the public deserves him back there.

Mr Scott: It's nice to have all his abilities and I envy him for them.

Mr Kormos: I'm glad you restricted your comments to my appearance before you as mere counsel.

The Chair: Next question. We just have a minute.

Mrs McLeod: Thank you very much, Judge Scott. I appreciate both your oral and your written presentations.

Mr Chair, I just wanted to ask Mr Murdoch to address a couple of the issues that I think aren't addressed in Mr Murdoch's bill that you raised in your submission, one being the fact that there should be a provision for retired judges perhaps to be allowed to do marriages. Second, I think you made reference again—Peter referred to it as section 24—to restrictions on judges of having to perform services between 9 and 5 and in their chambers. I'm wondering whether it would be appropriate to ask Mr Murdoch whether he would consider amending his bill to include those two further amendments. They would be consistent with his intent, I believe.

Mr Murdoch: I'm open to amendments to the bill; no problem. I made it the way it is so that we could probably all sit down together as legislators and make a bill that will work. I'm open for any of that stuff. When we come to that, I certainly would be. I think we have to leave it open that more than just retired judges can apply. The ministry didn't have too many concerns, but I think we can work some of them out.

Mr Scott: I appreciate retired judges being allowed to lobby, although a lot of us are slowly dying off, but there are still a few around. I have conducted hundreds and hundreds of marriages over my years on the bench and always tried to do them in a dignified and decorous way and in keeping with the importance of the occasion. I'm sure that would continue.

I agree with the commissioners. Edmonton, for example, has a series of marriage commissioners. Last night I spoke to my brother, who lives there, and he explained that they did have commissioners in Alberta and that the system worked reasonably well. They have some problems with the Indian population, but Premier Klein appointed two Provincial Court judges who were of the Indian race, and they have no difficulty getting on the reserves and that sort of thing. So the system works well there; it's not highly regulated.

I think some of the fears that people here are expressing are because they're not in the field. They really are not on the front lines and don't see what is happening in our community. This is a problem that's growing at an alarming rate. If you get these problems early, if you're able to deal with the young people before they get married and discuss with them and interview them, it would be a wonderful opportunity to explain to them the complexities of marriage and divorce and the consequences etc.

It's not the kind of bill about which you're going to get horn-blowing and whistles and everything else, but in the long run the government will save hundreds and hundreds of thousands of dollars in social costs.

The Chair: I should go to Mr Kormos—we've pretty well run out of time.

Mr Kormos: Very quickly, you heard the concerns raised by some of the ministry people in terms of fees. Right now, clergy people have no restrictions, no controls on fees. People are either told by other church members what the fee should be, what the acceptable range is—I know of cases were they ask the clergyperson what would be acceptable, and the clergyperson tries to be liberal in the interpretation.

Do you see any reason why there should be an imposition of restrictions in the area of fees—regulation of fees—for the commissioners, as is being proposed?

Mr Scott: You might want to put a reasonable limitation on them. It's not a difficult ceremony and would not warrant a large fee. I've never charged anything or received anything. I never considered that as being important. Of course, you people have been kind enough in our pension plan that it wouldn't matter to me at all whether I charged a fee.

Mr Kormos: But you had good lawyers as well.

Mr Scott: Oh yes.

You might want to put an upper limit just for the sake of the individuals concerned, because I can see cases where there might be some exploitation of a situation where the situation is very critical.

I would encourage greater freedom in where the ceremonies are conducted. I once married a couple on the Jadran. The vice-president of one of the large companies had rented the whole boat for the night, and I went down and performed a ceremony there. We all danced in the moonlight and it was wonderful. In the summertime a lot of people like to have canopies, tents and that sort of thing at their homes, and you have very, very fine ceremonies of marriage that people long remember, rather than being crammed into the JP's office, where there are files and junk all over the place.

In any event, it's a very useful piece of legislation. Mr Murdoch and those who support it are to be congratulated on it. I think it will solve a lot of social problems that I don't have the time to go into here but which I have run into in the last 11 years. I would of course be most happy if you would accept an amendment to permit retired judges to perform the ceremonies, in any event, since we are already well trained in that department.

The Chair: Thank you, Justice Scott.

Mr Murdoch: On a point of order, Mr Chair: I'd just like to bring something to our attention here. We had discussions before with Anne Marie Predko of the Ministry of the Attorney General, and I'd like to tell you one thing. I have a letter in my hand. It was sent to me on May 12, 1999. It says, "I understand the concerns you have raised. As set out in your letter, justices of the peace are no longer performing civil marriage ceremonies in Grey-Owen Sound. However, in view of the principle of the independence of the judiciary from government, the responsibility for the assignment, as well as the education, supervision and monitoring of justices of the peace, falls solely within the purview of the Associate Chief Judge, coordinator of justices of the peace, the Honourable Marietta L.D. Roberts. In areas where civil marriage ceremonies can be arranged privately, the judiciary made the decision that non-core functions would be phased out throughout the province."

That's signed by Charles Harnick, Attorney General.

So, as I said, I did have a letter from the Attorney General telling me it would have been phased out—the ministry was right; it's done by the judicial system. But there it is, and I just wanted to read that into the record.

The Chair: Thank you, Mr Murdoch.

1730

ROGER DENCHFIELD

The Chair: I wish to call forward our next delegation. We have two delegations of 15 minutes each. I call forward Mr Roger Denchfield. Good afternoon, sir.

Mr Roger Denchfield: Thank you, Mr Chair and honourable members of the committee. I appear before you today to voice my support of Bill 74. I wish to share my personal views as to why I feel this bill should be passed.

First, allow me to introduce myself. I am Roger Denchfield. I currently hold a Bachelor of Theology degree. I was an active pastor for many years. I chose to resign from that position in 1974, as I had a family to feed and other obligations. I relocated to Ontario in 1974 and became an associate pastor of a local church in my home city of Welland, Ontario, until 1985. Due to the changes in my own personal beliefs and experiences, I have chosen not to affiliate myself with any particular religious licensing body.

Currently, I am a sales representative with Freedom 55 Financial and hold a mutual fund licence with the Ontario Securities Commission. So I am very familiar with licensing and regulations, as far as having to abide within certain governing bodies. Being a sales representative with Freedom 55 Financial has given me much opportunity to interact with the public, giving me a perspective as to what people are encountering when wanting to be married.

I have become aware of the changing trends among young people in our society today, and I believe the judge alluded to that too. For the most part, they have a belief system that does not see them in regular attendance at a church or synagogue. Many of them do not approve of formal prayers and ritualistic words. Approaching the idea of marriage brings a conflict of concerns: whose religion do we honour, the bride's or the groom's; will we be able to use a sanctuary; if we choose to have an outdoor wedding, will the pastor/rabbi/priest be willing to come and join us in this outdoor ceremony; if we cannot find a minister, should we attempt to set a time with a justice of the peace?

Now I've got parents mad at me because they will not have the wedding they've always dreamed of for their daughter.

Here are some examples that pastors encounter which, because of the regulations and guidelines of their own particular denominations, would place their ministerial licence in jeopardy or result in their denial to marry a couple.

A pastor may be in a position where a young couple has come to him whom he hardly knows and they want to be married. The pastor may think to himself, "I vaguely remember that her mother came to church for a while, but I've not seen her for some time. So now I must arrange to have both of them attend my church to meet the regulations of my denomination—the number of Sundays—

so I don't put my ministerial licence in jeopardy if I perform this wedding. I also must have them attend the required number of counselling sessions."

Much discussion has gone on regarding training. I'll just sideline you here for a second: within the ministerial documentation of most denominations, they do require intensive counselling of the couple prior to performing that ceremony.

A couple has just come into my office. One is divorced and the other has had a child out of wedlock. How am I going to be able to handle this situation and keep my head office from revoking my ability to perform future weddings? If I am to perform this wedding—I don't know; I think I'd best send this couple to a justice of the peace or tell them to find another more liberal pastor willing to do the ceremony, if they can find one available.

A couple approaches to be married. One is strong in his faith and the other is strong in her faith. From the standpoint of many churches, this is an unequal yoke. They must become agreed and come to a common union, a common denominator. Either they both become of my faith or I will not unite them in marriage. Again, I must tell them to seek out a judge or a more liberal-minded minister to perform this wedding. Examples of this would be found between Protestant and Catholic, Protestant and Muslim, Catholic and Jewish. In today's society this is becoming more and more frequent.

There are also those who would like a traditional wedding without a lot of religion, especially when involving those who claim to be agnostics or atheists but do not want an impersonal, quick wedding.

I feel this bill is needed, as it will offer an alternative for both the couple and the church. It will also lessen the workload of the judicial system, as has been aptly noted in previous discussions thus far.

I personally have felt the need for an alternative to the existing system for some time. As I said, I've been a resident of Ontario since 1974. As a former pastor, I'm often approached by a couple wishing to be married to perform the service for them. I've had to turn them down because I'm not registered with the province to perform the ceremony. They have then approached several churches, only to be told, "No." One of the couples did find out about a Valentine's Day service in Niagara Falls and participated in that service. They then found out there were problems with the registration of the licence of the particular person who had officiated their own local cell. They're legally married today, but the problems were there which they had to get corrected.

I know of several instances similar to the one cited above, where they would have liked to have a service done by a clergyman but they were refused for one reason or another and they had to go to a short, secular service.

If I were a marriage commissioner, I would offer them a dignified service that suits the couple. I've always tried to find what the persons want and accommodate them as much as possible. As I mentioned, having been a pastor for several years, I have done several weddings. No two people are alike, and definitely when you have two people in love, there are a lot of options to sort through.

There are some things that must be included in a ceremony, as no wedding vows should ever be taken lightly. The regulation of the marriage licence is done through the laws of the province, and thus a public acknowledgment of those regulations made publicly is a serious matter. One thing that has always concerned me, and I will ask it here, is: why is it that it often takes more time to buy a car, get a driver's licence or, in my current line of work, buy a life insurance policy than it does in the wedding ceremony itself today?

This is a lifelong commitment, or at least it should be, so why not spend a little time in the ceremony? I am also a strong supporter of some sort of pre-counselling with the couple, and this can be coupled with the planning of the service.

I would accommodate them also as to the place of nuptials, within reason. I would like to quote a marriage commissioner from Alberta. I sent her an e-mail; I was trying to get more information regarding her office's marriage commissioner in Alberta—it was such short notice, I haven't received a response yet, but I will take the liberty of quoting her public Web Page. In it she states that she has "had more fun, met more wonderful people and been to more interesting places than most folks ever hope to do. These ceremonies have been as varied as the bride and groom themselves. Many smaller weddings have taken place in the privacy of my own Victorian-style living room (with its lovely oak staircase for the bride to make a grand entrance). Some of the more adventurous ones have taken place on a mountaintop, under a waterfall, an airplane, hot air balloon and boat."

I suppose I could go on and on, but I do want to leave time for questions, as well as trying to be brief.

Let me just summarize that I feel this is a bill which should be welcomed by many couples within Ontario. Currently I know of five couples who are looking for someone to solemnize their marriage and they're still looking. Those who are still waiting for the church to change its restrictions—but if the church does change its restrictions, now they have put themselves in jeopardy until it is changed—they're on a waiting list at city hall; they're waiting for the other partner to change their mind as to which church or parish to get married in.

I do thank you for your time, and I do hope that Bill 74, Mr Murdoch, will have a speedy passage. Perhaps I would be considered as a marriage commissioner in a capacity that it would afford. Thank you.

The Chair: Thank you, Mr Denchfield. On behalf of the committee, I do want to thank you for testifying this afternoon.

1740

MARGARET ANNE McHUGH

The Chair: I would ask for our next delegation, Margaret Anne McHugh. Welcome. We have 15 minutes.

Ms Margaret Anne McHugh: I'm Margaret Anne McHugh. I have no real reason for being here except that for 23 years I've been annoyed that I didn't get to have the marriage ceremony I wanted because I had to have a Christian religious ceremony. I'm not a Christian and I didn't want one. This is something I've been following for 23 years that brought me here. When I saw the act I was very keen to get here.

I did a little work. I brought a written submission, but this submission suggests that, instead of it being by electoral district and essentially patronage appointments, it should fall to the office of the registrar general. Having heard those people present, I no longer feel that way. I'm happy to hand them out as long as you can record that I don't actually believe my first recommendation.

I thought I wouldn't have to speak very much to the need for this. To me, it was so blatantly obvious, but I did try to do a little work around it. There are some things on there—there's a link to a Web site called marryus.org. If you want to be married in the city of Toronto—I wanted to find out if it is possible to have a secular ceremony. It is not. Period. The end. The city of Toronto clerk's office, if you want to be married at city hall in Toronto, links you to an organization called Ministerial Associates; their Web site is www.marryus.org. They are all Christian ministers. I spoke to them at length. They said there are many issues in Toronto. The issues in the rural areas, I think, have been better expressed. It has to with diversity. It's exactly the same issue. When people from fairly new religions in the country can't get their clergy established because their denomination has not been established for long enough in Canada, those people want to have secular marriages. If they're from a small Muslim group that doesn't yet have their clergy established as a denomination that can be registered, they can have a secular ceremony but it's going to be conducted by a Christian minister. They said they are faced with that daily, with people being upset about it. They get way more requests than they can handle. On their Web site, and on many other Web sites I found—I don't know about this donation thing—the rates are posted. The posted rates are not exorbitant, I don't think. For marryus.org it's $155 if it's on-site and $250 plus travel expenses if it's off-site.

Also, when the ministry says they have no demand, I started out today trying to call the registrar general at the Ministry of Consumer and Business Services. The line you get for the registrar general doesn't let you talk to anyone, period. It lets you make one of four selections to get information. I had to get a government directory or go on-line to get a phone number that would get me into the policy branch. I only knew how to do that because I worked for nine years in the Ministry of Health.

The other thing I want to say that you'll find in my presentation is that I took a very different view. Everyone is so concerned about the solemnity of the ceremony. I was concerned about people who wanted to have different kinds of ceremonies. That's the other thing that's not available now that hopefully this bill would solve, which is if you want to get married in your bare feet on a beach at sunset, some people might not consider that solemn. I might consider it an extremely spiritual, deep experience and that is what I want to have.

There's the solemnity, I think, in the seriousness of the legal contract you're entering into, but there's the joyfulness of the ceremony and people wanting to have different ways of doing that, and it is simply not available in this province at this time.

That's really all I wanted to say, so you're finished quickly.

The Chair: Thank you very much. That leaves about eight minutes for questions. Are there any questions?

Mr Kormos: Thank you very much. I didn't have a chance to say thank you to Mr Denchfield as well as to the judge.

It's interesting because I've read your written submission. You've addressed the issue of fees in there and the number per constituency or riding. I agree, if you take a riding like Timmins-James Bay, to have six marriage commissioners is impossible. You've got Peawanuck, an isolated community, and Attawapiskat. Each one of those communities should have one marriage commissioner.

What are you suggesting? Because my sense is that nobody is going to be doing this to make a living, right? So it's not as if you want to control the numbers so they can share the proceeds in a small enough number to earn a living. Nobody is suggesting that these commissioners are doing this to earn a living.

Ms McHugh: But it needs to not be out of pocket. That's what I was taking issue with. In BC they have a $75 fee, and that's been a problem, I think.

Mr Kormos: Quite right, there should be some minimum fee, but in other words, we shouldn't be worried about saying, "If we create too many they won't have enough to support themselves."

Ms McHugh: That's right.

Mr Kormos: Then I'm saying, why is there a top limit at all? Why do we care? In Welland-Thorold—Niagara Centre riding—let's say there are 20 or 30. Nobody is doing it to make a living. You're suggesting they have to perform a minimum number of marriages a year.

Ms McHugh: My concern was that you can't get them. So my concern is that if it was a kind of patronage appointment, if you like, an order-in-council appointment, particularly if they are highly limited in number, it might be perceived by people as something that gives them some credibility or increased status in the community. So people would want to get the appointments as marriage commissioners but then would only want to do them occasionally or for a small group or limited only to within five miles of where they lived or something, and that if there was a small number, they wouldn't actually be available.

My concern was actually, would people not just be appointed as marriage commissioners but have to do marriages once they were appointed? Because I was assuming people wouldn't make a living at it and they'd only be available maybe on evenings, Saturdays, Sun-

days, and they'd only want to do a certain number. You don't want to use every available hour of your time. That was because I had assumed there was a very large demand. I believe that with very little effort—in fact, I'm going to start tomorrow to demonstrate the demand. It seems to me it's huge.

Mr Kormos: Would you restrict them from receiving gifts from the people they marry?

Ms McHugh: I wouldn't.

Mr Kormos: Let's say there was a rate established by regulation of $25 or $30. Would you then forbid these people from accepting anything else that a married couple might want to give them, the way married couples do with clergy?

Ms McHugh: I would not.

Mr Kormos: Or I presume they can with a judge. If they want to give a judge a gift, they can.

Ms McHugh: I wouldn't restrict. I actually don't feel too concerned about it. I think that people should be able to have some limited fee. If you're doing them every half-hour in your house, in your living room, $35 is probably fine. But if somebody wants you to drive 200 kilometres to a location out in the woods to do something a bit unusual and get eaten by blackflies, you should probably be compensated at a much higher rate. So I think the regulations or contract or whatever is used should be able to do that.

I'm not worried about people extracting things like special gifts. If someone did a good job for me, I might want to give them some little present and I wouldn't want them to be feeling they had to refuse.

Mr Kormos: When Mr Hardeman asked about how you evaluate a marriage, he was obviously just talking about the ceremony. He wasn't talking about its longevity. We go to 40th and 50th wedding anniversaries. Those were good marriages.

Ms McHugh: I had a ceremony I didn't like but I've been married 23 years.

Mr Murdoch: Thank you for coming. When we first started, Lyn and I talked. Lyn mentioned to me why we needed a whole lot of witnesses when we all like a bill. But after hearing the ministry, we can see why we did need a bunch. I'm certainly glad we are. I never thought they'd be like that, as bad as they were, and so misinformed, as we can see—every witness we've had so far, and I'm sure you're going to hear that from more. As I said, there was a letter saying that they didn't do—they were so misinformed.

Ms McHugh: But you can't call their ministry—

Mr Murdoch: I mentioned that—

Mr Kormos: Does that mean the minister doesn't know what he's talking about here?

Mr Murdoch: On this point I guess he obviously doesn't. Maybe we'll have to ask him in the House.

Our systems are terrible. I'm glad you brought that up. Somebody else can maybe carry that on another time. But when you try to get some ministry—some are good and some are bad and obviously this one—I didn't even have to phone them because I always talk to the minister in the House when there's a problem. I know that's really frustrating when you get in. I once even had a voice come on and say, "I don't you understand the system. Maybe you should try again." I don't know where he got that one.

I just want to thank you for coming. I appreciate your support and hopefully we don't get bogged down too much on some of the details. I use six because I looked at an overall, but there are other areas like the Rainy River district where we might to have an exception or something. I'm not stuck to that figure by any means.

The Chair: We now go to Mr Levac.

1750

Mr Levac: I wasn't here for the presentation. I apologize for that, but I did hear some of the answers to the questions that tweaked me on just a couple of quick questions.

Thank you, first, for coming and showing your interest over these years. The ministry people have expressed a concern about patronage and you're also making that same observation. How do you avoid that if it ends up being an appointment?

Ms McHugh: I'm not so concerned about them being appointments that are patronage, in the sense of rewards, as I am about the outcome of that, that it may not be reflective of multiple communities in a riding, in an electoral district. That's more my concern about it being an order-in-council appointment: how is it going to ensure diversity? If you don't have some diversity, I have a concern where someone says, "Oh, you're white and you want to marry this brown, yellow, black, purple, whatever, person," some of the things the previous presenter in some ways was talking about. Let people make some decision based on their own lifestyle or choices or whatever, that they don't want to perform ceremonies for certain groups. You need a diversity of people so you don't end up with people refusing to do ceremonies.

Mr Levac: Inside of that, then, the concern would be raised that there needs to be some type of reporting mechanism or some type of regulation that allows for the perusal of that happening to ensure that the concerns you raise are taken care of. By that, I simply mean that you need to find statistically or even anecdotally that that's not happening.

Ms McHugh: There should be some complaints process. I did assume there would be some regulation. There certainly is reg-making authority in the Marriage Act, but my concern is that the bill didn't specifically say how the regulations concerning the commissioners would be done or whether it would be by policy. I guess you weren't here, but having heard the people present from the policy area of the Ministry of Consumer and Business Services, from the registrar general, I just thought I don't want those people to have anything to do with it, thank you. They just seemed so out of touch with reality, I couldn't believe it.

Mr Levac: Having said that, though, there needs to be something in the bill that defers it to regulation, if I'm not mistaken. Right, Bill?

Mr Murdoch: Yes.

Mr Levac: We can get that cleaned up to make sure it allows that to happen in order for us to take the steps you're alluding to, and the ministry staff actually alluded to it in their deputation to us.

Ms McHugh: Theirs are for the opposite reason. I'm concerned that people won't do ceremonies, that they'll be too restrictive. They're concerned about it being solemn and dignified.

The Chair: I'll go to Mr Hardeman.

Mr Levac: I appreciate that, Mr Chairman. Thank you.

Mr Hardeman: Thank you very much for the presentation. At the bottom end of your letter you speak about some of the requirements, such as being able to withdraw the appointments because of preaching to the couple as opposed to just instructing them about the legalities of the ceremony. You deal with how they should or shouldn't be appointed, and I appreciate your changing positions after hearing what the presenters told us.

Ms McHugh: I'm concerned, at any rate, that they may not be the right place.

Mr Hardeman: I'm wondering if setting maximums is in fact what is causing the problem. If enough people come forward who want to preside over marriages and enough are appointed, then what they do or don't do—doesn't the marketplace deal with that? If the individual preaches to people and they shouldn't be, because they're preaching to people who don't want to be preached to, then they go to the neighbour, who also has the right to perform the ceremony. Would you see the possibility—

Ms McHugh: That was assuming there were six or less.

Mr Hardeman: —rather than restricting who and what should be appointed, of making sure that all the appointments are qualified to do it but we can have various types of people doing it? We can have people in the clergy who are no longer connected to a denomination being appointed. They very well may want to be somewhat religious about the civil ceremony, but I could make that choice.

Ms McHugh: In the phone calls I made, I encountered so many people, even people who have the right of a denomination to perform ceremonies but who want to be able to perform the ceremonies outside of the demands of that denomination. I spoke to three separate ministers who said that. They said, "Oh, what a good idea. I'd love to be a marriage commissioner. Then I could do it outside of all the confines." So I was saying, "Don't let those people do it." There we have the right to perform marriages. If they don't like it the way it is, take it up with their denominations. So I thought the commissioners shouldn't be those people.

Mr Hardeman: My concern is that there very well may be people who want the marriage performed who don't affiliate themselves with any denomination but who do think in general terms that they would like some type of preaching.

Ms McHugh: Of course. You know what? My worry about preaching was not about preaching at the marriage. My concern was that marriage commissioners could be people who would say, "Until you lose weight and you give that child up for adoption, I'm not marrying you," or who would say, "I want to explain to you that marriage is X, Y or Z or it has to be entered into with this or that thought." If they're doing secular marriages, it's not the ceremony but the pre sort of time, that counselling shouldn't be a consideration of that.

The Chair: I'll go to Ms McLeod, and we are running out of time.

Mrs McLeod: I'll be very brief. I just want to thank you and the previous presenter for your presentations and to say to Mr Murdoch that I now understand why we needed to have the witnesses who have come forward. I made some assumptions, based on the Hansard and debate in the House, that all three parties were supportive of the bill and that it would just be a formality. Now I'm actually thinking, from everything I've heard, that we should be doing a much more extensive revision of the acts we're working under.

One of the terms you used—and I just want to make note of this because I don't think you said it facetiously—was "solemn." That's a good word and "solemnity" is a good word. "Solemnization" sounds like something ritualistic. It bothers me. It has bothered me from the time we started having these hearings. It does take away from the sense that this is supposed to be joyful in whatever setting the couple chooses to be married. I am not seriously going to propose that we start amending that word all the way through the act but I would be tempted to.

Thank you very much for your presentation.

The Chair: On behalf of the committee, I do wish to thank you, Ms McHugh, for coming forward.

We have one final, very brief bit of business. I declare these delegations wrapped for today.

There was a question from Mr Kormos with respect to Bill 51 and the cost of the hearings and travel, and the clerk has some numbers. I would ask the clerk to briefly summarize or report those numbers.

Clerk of the Committee: The cost incurred for the rooms, airfare, cabs, limos and expenses submitted by members was about $11,000 for the trip to Ottawa.

The Chair: Thank you. I now declare this committee—

Mrs McLeod: With Bill 51 to be further considered by a subcommittee in terms of procedure.

The Chair: Yes. Thank you. We'll adjourn.

The committee adjourned at 1758.

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Official Report of Debates (Hansard)

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Journal des débats (Hansard)

Lundi 24 juin 2002

Standing committee on justice and social policy

Marriage Amendment Act, 2002

Comité permanent de la justice et des affaires sociales

Loi de 2002 modifiant la Loi sur le mariage

Chair: Toby Barrett
Clerk: Tom Prins

Président : Toby Barrett
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON JUSTICE AND SOCIAL POLICY

Monday 24 June 2002

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE ET DES AFFAIRES SOCIALES

Lundi 24 juin 2002

The committee met at 1536 in committee room 1.

MARRIAGE AMENDMENT ACT, 2002
LOI DE 2002 MODIFIANT LA LOI SUR LE MARIAGE

Consideration of Bill 74, An Act to amend the Marriage Act / Projet de loi 74, Loi modifiant la Loi sur le mariage.

The Chair (Mr Toby Barrett): Good afternoon, everyone. Welcome to this regular meeting of the standing committee on justice and social policy. We are considering Bill 74, An Act to amend the Marriage Act.

As we know, tomorrow is clause-by-clause. I would ask members to try to submit any amendments to the clerk by 11 tomorrow morning. I think we realize that would help the clerk make the amendments available to everybody on the committee before we do clause-by-clause.

One other thing I will mention: there has been a discussion with respect to an emergent subcommittee meeting, perhaps when we finish the delegations today. I don't know whether anyone on the committee has any comments on that or if there has been any discussion.

Mr Peter Kormos (Niagara Centre): Discussion on what?

The Chair: On the need or advisability of a subcommittee meeting after this regular committee meeting.

Mr Ernie Hardeman (Oxford): I understand that the proposer of Bill 74 would like us to consider a subcommittee meeting to discuss the possibility of proceeding with that bill through committee some time when the House reconvenes after the summer recess. It was suggested that maybe we could have a subcommittee meeting to discuss that possibility but not necessarily make a decision on it yet.

Mr Kormos: You're requesting a subcommittee meeting dealing with Bill 74?

Mr Hardeman: Yes.

Mr Kormos: The prospect of altering our current schedule?

Mr Hardeman: Yes.

Mr Kormos: Which is probably a good idea. Is that at the suggestion of Mr Murdoch?

Mr Hardeman: No. This has nothing to do—Bill 74 is the firefighters' bill, isn't it?

Mr Kormos: No.

The Chair: That would be Bill 30.

Mr Hardeman: My apologies. It's the proposer of Bill 30.

Mr Kormos: The Chair has already written to the House leaders requesting that consideration be given to the prospect of accommodating this committee in the summertime, but I'll be pleased to meet with you in subcommittee.

Mr Hardeman: I'm at your disposal. My understanding is that the—

Mr Kormos: If we've got a vote at 10 to six, we've got problems.

Mr Hardeman: So it is just a matter that if there is time after we get through with our delegations, between that and the time we go to vote, since all three parties are represented here, we could have a subcommittee meeting to discuss it. Maybe there will be a recommendation coming back to the full committee tomorrow and maybe there won't be a subcommittee.

The Chair: OK. We'll leave that order of business.

Our next order of business, then, would be delegations.

Before we commence, I'd like to welcome my daughter to the subcommittee. I'd like to put in Hansard that my daughter Brittany is here today.

POOL PLAN ADMINISTRATORS LTD

The Chair: We have 15 minutes for each delegation. I'd like to ask the first delegation, Pool Plan Administrators Ltd, to come forward.

Good afternoon, gentlemen. We would ask you to give us your names, and then we can begin.

Rev John Carson: My name is John Carson, from London, Ontario. To make it easy to remember, I am the original, authentic Johnny Carson. I have owned and operated six limited companies. I'm a businessman. When I retired in 1986, it took three years to wind down, and I moved to my cottage at Bayfield. I couldn't stand to do nothing so I hung out my shingle as a consultant.

On one of my trips to Toronto in 1990, walking down Bay Street, an old friend of mine, Norm Robertson, shouted out some profanities at me from the other side of the street. We met on the streetcar tracks and he invited me for coffee. We exchanged business cards. He believed I could help him with his company, Ministerial Associates. His vision was terminated on Thanksgiving, Octo-

ber 1997. Together we had surveyed southern Ontario from Hawkesbury on the Ottawa River to Amherstburg on the Detroit River. The pilot project was in London in July 1992.

It is our belief that we should adopt the European method of city hall weddings, which has been proven for over a century, yet in our Ontario, a decade. Yes, I have performed weddings in various city halls in the greater Toronto area. Norm lived within walking distance of Etobicoke city hall, and we were never successful because of an exclusive contract. Several times I have been at Scarborough Town Centre, so I understand. I am also familiar with Owen Sound and the home of Mr Murdoch.

We have an Alliance Church on Wonderland Road in London. Last Saturday, June 15, at 1 o'clock, I celebrated the holy matrimony of a young couple in Strathroy at Bethel Baptist Church, which has seating for 500 and has two services on Sunday with over 400 at each. It is a beautiful edifice. When I completed their register, because of the service being in their facility, I glanced through it. In 2000, they had five weddings, and in 2001, they had five weddings. I celebrated five on that Saturday.

In over 4,000 weddings, the only complaint was that I mispronounced a bride's name. Yes, I might be referred as a Marryin' Sam, but I have led more bridal couples back to their faith background or to new beginnings. I am proud of my evangelism.

The question arises about disturbing denominations. I do not believe it is a problem, as they are all looking for a solution to what I refer to as "narrowism." In the fiat, we refer to the participants and those who tithe carrying the burden.

I would like to tell you about a London doctor who was raised and educated in Ireland. I knew him because he attended the Irish benevolent society luncheon. He was a horseman and attended the Royal Winter Fair each year. For 32 years he had lived in sin. When he told me, I replied, "Isn't that a wonderful courtship?" Yet he had been refused on numerous occasions by those who look down their nose at bridal couples and offended one or the other. In any case, he called me at noon on the day and asked to change from the chapel to his home in front of his fireplace. "For you, Doctor, I will make a house call." As I turned into his circular drive, the two lady witnesses followed. His son got married at the Royal Canadian Yacht Club in Toronto last Saturday.

I could write a book, but that is not what we are here for today. Over a period of 10 years, we have tried to move the Marriage Act into the electronic age of instant service at a substantial saving to the taxpayers of this province. You, as legislators, have the ability to endorse our program.

Mr Philip T. Mitches will outline our proposal for your consideration and answer any of your questions.

Mr Philip Mitches: My name is Philip Mitches, and I live in London. Mr Carson and I have known each other for almost 50 years, since I was a choirboy at St Paul's Anglican church. He's asked me to help him, and I'm the facilitator in this.

I have prepared a booklet for you, which addresses all the issues that we determined were asked by the members during the first and second readings of the Murdoch bill. These are addressed in the first five pages, with comprehensive footnotes below. Attached, starting at page 7, is the actual question period of Bob Wood and Minister Hudak, indicating the minister's and the ministry's present position; the first reading and second reading extracts of Hansard, including the debates, referencing the commentary we have made in the first six pages; and a fiat that we presented and delivered to the government back in June, almost simultaneously with the introduction of Mr Murdoch's bill. In fairness, Mr Murdoch's bill had been introduced to the House about five days before our submission went to the government.

What I'd like you to note—I'll just quickly go through, and then we can go through some of the flowcharts at the back two pages. If you look on the second page, you will see footnotes 7, 8 and 9. Those three footnotes are substantive information. Firstly, footnote 8 refers to our fiat and some statistics that may not be before the committee today. Last year, when we asked the ORG statistician, Debbie Beck, she advised that 642 religions are recognized as having authority to file with her the identities of individuals who then may be registered to solemnize under the act. When I was talking to her more recently, as indicated in that footnote, she says there are four or five more and that if I use the statistic 650, that would be accurate.

Now, it's interesting that when I asked her how these were determined, I was told they were confidential. It seems to me that if religions are being recognized in a fashion that may not be consistent with the religious land orders act, which I'll get to in a minute, that may be something the committee would wish.

In any event, the general thesis of our presentation is that we do support Mr Murdoch's bill, with some amendments. Now, Mr Murdoch, and in debate Mr Kormos and several other speakers in second reading referred to it—they were worried about training, and it was inconclusive as to what training they were talking about. In some instances, it was the training of the marriage couple as to their prenuptial relationship and their marriage rights, and in the other instance it was training for the people being proposed by the Murdoch bill to solemnize weddings.

There are two different issues here: one, who is and who isn't going to train people if they're civil celebrants?

In footnote 7, you will see a history of when marriages started to take place in Ontario. The first statutory reference we could find is that of 1792, where all marriages that had happened in Upper Canada up until that time were prefected, whether they be before the colonel of a regiment—because this was a military land of the British government after 1759 when the British won against the French on the Plains of Abraham at Quebec City. That was the first thing.

You will go through and see there were waiting periods of 15 days for marriages. In 1950, that was reduced to three days, and that was carried forward in the revision of 1977, which is extensively what you have before you as the present Marriage Act. But in 1994, the three-day wait period was reduced or in fact eliminated, so there is no wait period from the date you obtain the licence to the date when you wish to get married.

1550

The reason I bring that point up is because Mr Wood's bill, which has been talked about in the debates, Bill 158 of the previous Parliament, set a five-day wait period and a training period of the couple in their relationship or marital rights prior to marriage.

I would ask that you read that material because it's fairly extensive. In it, together with the footnotes, we've addressed and cross-referenced every observation of the debaters in the second reading.

I would like you to go to the back of the book, where you will see a chart. There are two charts. Please refer to the chart which says, "Standing Committee, Legislative Assembly, Justice and Social Policy, existing Marriage Act flow." Pull that out and let me refer that to you to show you what is happening right now.

If you quickly refer to it—I asked for an easel but I wasn't able to obtain one—here's the minister, here's the registrar general and over here in block 21 is a register of those people entitled to solemnize a marriage, ie, perform the marriage service. They are elected or appointed by the clergy under section 20 to the ORG, or they are judges or JPs. They in fact keep the register, which is this box 28, which is the marriage register, but a copy of that marriage register is sent over to the registrar general for certification purposes.

Here we have a stream. Depending upon if you are an Indian or non-Indian, you can obtain a licence—I'm sorry, bridal couple here—if you're an Indian you come through and you get a marriage licence without a fee, but if you're a non-Indian you must pay the fee.

These are the people authorized to issue marriage licences. Automatically, because of your status as a clerk of a town, municipality or other incorporated village, you have a right to issue licences and the minister has discretion in other areas. You can follow this; this just gives you the present flow.

In the next chart, what Mr Murdoch proposes is a slight change to it. If you look in the block section 28, marriage register, you will see that he proposes that there be added an item (c) in that, an order in council. That's the six compulsory persons from each riding.

We don't believe that the word "shall" should be there. We suggest it should be "may" because that may not be quite correct. We also encourage amendment to allow college members of a proposed college of celebrants, which is detailed in the fiat. I'm not going to go through that with you. It's detailed in the fiat, which is that little bound book attached in our binder here before the existing Marriage Act flow. I'd ask you to look at that.

But we're also saying that Mr Murdoch doesn't address an issue which didn't come up in the discussion on second reading, and that is, it is insufficient to have the people issue marriage licences as presently constituted. There should be an ability to issue marriage licences by persons other than municipal clerks of the towns, villages or cities, or the ministers (a) through (c). We suggest that there be a new class, (d), members of the college of celebrants which we propose in the fiat.

In footnote 8 I had referred to before, if you go through that, there's a history of showing that some time in the early 1800s—it looks like 1845, somewhere in that period—the clergy were also authorized to issue marriage licences but were prohibited from performing marriage services on those couples they gave licences to, so as to avoid a conflict of interest. That's the kind of amendment that we would ask for. We're suggesting that Mr Murdoch's bill include an amendment to subsection 11(2) by adding a designation of college membership. It could be done in the same fashion as exists in 28. That is identified in a class as being authorized to issue marriage licences, that class being defined by regulation.

I'm prepared to take any questions. Thank you.

The Chair: We've pretty well wrapped up your time, sir. We have about seven delegations this afternoon. Unless there's a pressing comment from any committee member—

Mr Kormos: I just want to thank these gentlemen. This is one of the best-prepared submissions I've received in some 14 years. It's even better than some of the high-priced consultants. The fact that you read our speeches amazes me. You have to have read them because you have a footnote and respond to them, and that pleases us no end.

This really is an incredibly skilful submission. If anything, it's a template for other people in terms of the detail that you address.

Mr Mitches: The only comment I might make on that is, in order to really understand the issue Murdoch presents in his Bill 74, you have to have gone through the legislation piece by piece. Without having a flowchart for those who are not lawyers, it's impossible to understand what the mess is about. That's why the flowchart's extremely important and that's why we came to the conclusion that we should add an additional flowchart, which we call Murdoch's bill, College of Celebrants flowchart.

Mr Kormos: But then around the issue of licences, of course since banns are still allowed, licences aren't necessary. I would never recommend somebody to marry without a licence, simply because it's proof of the marriage from a lawyer's perspective for the purposes of the Divorce Act etc down the road.

Mr Mitches: I'm glad you brought out the banns of marriage because the Bishop of Huron, which is the Anglican Bishop of Huron, and the former dean of the Diocese of Huron at St Paul's Cathedral have both told me they refuse, as practice, to marry anyone by banns of marriage. If you want banns of marriage, you first get a licence and deliver it to the church, because if one of the

parties is not a parishioner of that church, there's no knowledge within the community of that parish to know the status of the people. Therefore, it's extremely important that the licensing authority person understands the act and the onus on the couple to be truthful. I'm just going to leave it there.

Mr Hardeman: I just very quickly wanted to say thank you for a very thorough and well-documented report. I would almost have to suggest that part of the report was prepared prior to you having the opportunity to be notified that you'd be speaking.

Mr Mitches: That's correct.

Mr Hardeman: It's hard to believe you would have prepared all this in that short a period of time.

Mr Mitches: The fiat, in fairness to you, was prepared for delivery on June 15 of last year. It had been delivered and it's not been changed except for some of the cosmetics of the colour.

Mr Hardeman: Thank you very much. It is a very thorough report.

Mr Dave Levac (Brant): I will be very brief. I want to echo my thanks to both of you for this wonderful presentation. A quick question on your supplementary material. On the inside there's a small add-on and it says that the—

Mr Mitches: We call that the fiat.

Mr Levac: OK. Inside the fiat—did you make this presentation at the policy conference?

Mr Mitches: We delivered it to policy delegates, yes, we did.

Mr Levac: Have you made any kind of move to do that to any other party?

Mr Mitches: No, we did not. This is the first public disclosure to any other party but the Conservative Party. I was national secretary of the Young Progressive Conservatives from 1957 through 1965. It's always been my party. We just felt it was inappropriate until the party decided. Obviously the party didn't decide to do anything because the minister has told you publicly in question period with Mr Wood—

Mr Levac: That he would not.

Mr Mitches: —that he doesn't want to entertain it. We think he's wrong, but that's a different view.

Mr Levac: No, I appreciate that. I just wanted a clarification as to why it ended up—

Mr Mitches: I'm glad you did. May I point out a little story that's on the back page, the story of Newfoundland screech?

Mr Levac: Actually, that was the one that tweaked me the most. Thank you for that.

The Chair: On behalf of the committee, thank you for the delegation.

1600

DAVID CAMPBELL

The Chair: I now call forward Mr David Campbell. Good afternoon, sir. We have 15 minutes for your presentation. You may wish to leave a bit of time in that 15 for any comments or questions from the committee members.

Rev David Campbell: I will, thank you. I am a pastor in the great city of Owen Sound and I guess it was out of our ministerial group, of which I am the president, that the original impetus for this came, in that we wrote a letter to Mr Murdoch three years ago. So I don't come as a business person or with the impressive handouts that the previous gentlemen had. I'm really just coming with a pastoral perspective.

Three years ago the pastors in our area were asked by local registrars to help perform marriages in the case of those without formal religious affiliation. During that time, a group of from two to six of us has made our services available. Out of that group I have been the busiest for various reasons. I just happen to have been more available than others. During the past three years I've wound up performing about 150 marriage services in Grey and Bruce counties.

I am assuming that Mr Murdoch's bill is going to be passed. I can see the need for it. All I'm giving are some pastoral perspectives of things I've learned which might be of some help to you down the road in terms of what you decide to do with this and some of the practical points of implementation.

The first point is that a large majority of the people who have contacted either myself or other pastors were, contrary to our expectation, not looking for strictly civil services. They were people who had just lost contact with any church or faith community years ago and somehow just didn't know how to reconnect. I would have estimated that probably no more than 5% or so requested a civil, non-religious format. Then there were some others that were of an interfaith nature; one partner might have been Muslim or Buddhist and the other from a Christian background or whatever. Obviously, there will be less of that in our area than in the larger urban centres.

But whatever the situation, I gave people the choice. The response from most of them was that the religious dimension of the service was important to them and they wanted a minister to perform the service. It still held a sacred value, regardless of the fact that they hadn't darkened the door of a church building or a synagogue or whatever for 30, 40 or 50 years.

Being a preacher, I try to make a practical application at the end of every point. The recommendation I put before you is that, if and when marriage commissioners are appointed, if you really do want to respect and honour the wishes of people, my suggestion would be that some of those commissioners should still be recognized representatives of faith communities, while others may not be. They may be prominent citizens in the community or whatever. Then people would have the choice to do what they wanted. My point is that a lot of these people are not non-religious or anti-religious people; they're just people who have fallen between the cracks and don't have any connection any more.

The second point that I make in the handout that is before you is that most of the people wanted a service,

including references to God, the Bible or whatever. Other people wished to write their own service with God in it, without God in it. Some people would take a mixture of a service that I provided and their own. My recommendation is that marriage commissioners, if and when they are appointed, should be free to use a variety of service formats, whether they're religious or not. People should have the right, within reason, to choose what they want to do. I guess we're in the people business. People are important, I feel, and I would appeal to you that you make this as easy for people and accommodate them as much as possible.

My third point is that I've discovered that most people have a specific location in mind where they wish to be married and in that respect the system sort of works better without the justice of the peace. They don't want to go to a courthouse or something and say a few words. They want to get married at somebody's house, a community centre, a hall, on an island, on a ferry, in a hot-air balloon—I gracefully declined that—and all sorts of different places. But the point is they usually have a special place in mind. In rural areas, such as the one I live in, a lot of traveling can be involved. I note here that one day I must have driven a couple of hundred kilometres doing three different weddings in different places.

People not only have a specific location, but they have a specific time. Most people want to get married on Saturday or maybe Friday night. So they don't want to appear in a courthouse and say a few words before some official during business hours. I don't really know what you have in mind in terms of the practical application of this. All I'm doing is throwing out some suggestions that I think would benefit people. I know you're in the business of benefiting people and that's what you want to do. These are only my suggestions to you.

Those who desire to be marriage commissioners should be mandated with the commission to perform weddings, within reason, at times and places suitable to people who wish to be married. A lot of times it's a Saturday, and there may be people who don't want to do that on Saturday. That's their day off. But I feel that if we're going to honour what people want, those who would be appointed as commissioners should be willing to do that and also, within reason, should be willing to go to the places where people would like to be married. So there is travelling involved.

My fourth point is that some weddings are very simple. Sometimes there are only the couple and the witnesses, sometimes I've had to supply the witnesses. Most weddings are more complicated than that. In all the weddings I've done, only once did they employ a wedding planner. So the pastor becomes the wedding planner de facto, whether you like it or not. If the minister were simply to turn up and repeat the words of a service and do no more, calamity would result. There are all sorts of logistics. You have weddings in people's yards, in halls. How are you supposed to set it up? Most often, people don't have a clue. They're looking to you for advice. What about the music? How are you supposed to organize that? The photographer, the videographer, how about the wedding procession, the registry table? There are all sorts of different things. People have special requests to incorporate into a wedding. The bottom line is you have to sit down with people and work it out in order to achieve what they really want. This is an important occasion for them. I desire to honour them. Again, there are some unpredictable things, such as dogs as ring-bearers, and I won't go into what happened at that wedding. But within reason, we need to accommodate people.

So my recommendation is that marriage commissioners must be able to deal professionally with all the aspects of the organization of a wedding service, even as ministers have done over the years. It is not honouring people to treat this most significant event casually or just leave them to their own resources. That's just a practical point I'm throwing out.

My last point is that those other pastors and myself who were doing this discovered early on that people would phone around and book somebody else and then they'd phone me. None of us are running a business. We're all pastors of churches. We're doing this in our spare time as we can to help people out. With "I'll charge $75" or "I'll charge $50" or "I don't charge anything," we discovered that some people were pretty shrewd and adopted the free market to their benefit. They booked one fellow who was charging $100 and they would find that I was only charging $50, so they'd book me and then never bother cancelling the other and both us would turn up. So even preachers can get smart after a while and we kind of pooled our resources and decided that we'd better try to charge approximately the same fee. The other problem is how you charge if you've got to drive 50 kilometres or you're driving an hour, and that sort of thing.

1610

I really don't know what the answer is, but I would think if you're going to appoint a marriage commissioner, you ought to set some kind of standard fee and take this burden off the backs of people. In view of all that's involved, usually the minister is the least expense in a wedding. They probably spent more on the tuxedo than on the pastor, which is fine. But in view of all that's involved, I would think not less than $150 would be a reasonable fee—most people don't really have any problem with that—and then however you allocate a time and a mileage allowance, or you just leave that to be locally negotiated, I guess. I know there are marriage commissioners in other provinces and maybe they already have ways of doing this that you could just borrow.

My conclusion is that some amount of training would have to be provided to these people, particularly for those who maybe have never conducted weddings before. The training would have to include pre-wedding interviews—I'm not talking about pastoral counselling; I'm talking about wedding organization—types of services, where to locate services—on the Internet, in books, whatever—logistics of the wedding service, how to operate in different types of locations, the handling of forms and fees. I often wind up helping people fill their forms out. Maybe

you'd have to offer a one-day seminar to train people. If there are so many commissioners in each constituency, I think they should probably be mandated to meet together once a year to share their experiences, notes and so on.

That is my presentation. I really appreciate you allowing me to come and share my thoughts with you.

The Chair: Thank you, Rev Campbell. Ms McLeod, we have about two minutes.

Mrs Lyn McLeod (Thunder Bay-Atikokan): May I ask you first of all, are you able to draw on the services of retired clergy in order to help with the demand that's out there?

Rev Campbell: Some denominations withdraw the number on a person's retirement. I'm just going through my mind. There are some retired clergy who do perform weddings. I know that. None of them has made their services available. We canvassed the ministerials for anybody who would be willing to go on a list at the city hall and none of them did. I guess they figured if they were retired they'd like to be retired. But I know there are retired clergy who do perform weddings and they certainly are a resource.

Mrs McLeod: I know this would be a somewhat subjective analysis on your part, but do you feel that many clergy are as open to the idea of marriage commissioners performing non-church weddings as you have been in your presentation today?

Rev Campbell: I think probably. When it went through our ministerial group, we recognized that there were people who were falling between the cracks and how were their needs going to be met. I think most ministers are committed to seeing people's needs met by whatever means necessary. Some people don't want a minister involved and some people do. Let's give them a choice.

My only suggestion is that if you do appoint commissioners, some of them should be representatives of faith communities so that people who are coming into the registry offices would have the choice to make themselves. I don't think you'd get too much opposition within the church community to this. I wouldn't think so. I could be wrong.

Mrs McLeod: So the whole issue of it being outside the church is not an issue?

Rev Campbell: Outside a church building?

Mrs McLeod: Yes.

Rev Campbell: No. I think within the Anglican and Roman Catholic churches, they're mandated to perform weddings within the church building. But in any other church community, just from a Christian perspective, I don't think there's any issue about where you perform the wedding. That has always been legal in Ontario. You can do a wedding anywhere, can't you?

Mr Kormos: Thanks for your submission. There has already been some input with respect to the proposal that people who already have status by virtue of section 20 with a denomination not be entitled to be commissioners because the suggestion is they should be using their status, but then there are contrary views as well.

Bill Murdoch has tried to make this simple for obvious reasons. Granted, three-year terms are being proposed, but how would you control somebody who crossed the line? I understand you read about nude weddings and snorkel weddings and everything from the wild to the wonderful, and very little offends me, but there are certain lines you cross that are perhaps repugnant to public senses of decency. I'm not talking about the nude wedding; quite frankly that doesn't offend me a whole lot, but I think there are some pretty wacky—well, at the end of the day, if somebody wants to, God bless them. But I'm talking about the stuff that crosses the line—I don't want to suggest things—where it becomes entirely repugnant, from, let's say, people considering it undignified, where it lends itself to expressions of values or attitudes that are dangerous ones socially. How would you regulate that?

Rev Campbell: I've never had that happen.

Mr Kormos: Nobody's going to ask you because you're a Christian pastor, right?

Rev Campbell: Yes, but I am listed as being willing to perform civil services. I'm just saying that's never happened to me. But whether you're a pastor or whether you're a marriage commissioner who is not a pastor, to me everybody has values. So I assume you would build into the legislation some defence for a marriage commissioner if they felt their own values would be offended, that they would not be legally obligated to—I don't know.

Mr Kormos: Let me be blunt. Something that comes to mind is, what if you had somebody who got himself or herself a commissioner status who wanted to do sort of white Aryan Brotherhood weddings. That's an example of something where, to me, I'd say, "No, sorry, you've crossed the line." But if that person's a commissioner and he finds two people who want to participate in that kind of, albeit perverse, ceremony, how do you deal with that?

Rev Campbell: I guess you watch very carefully who you appoint, because if you appoint the kind of person who is into that kind of thing—nobody who is into that kind of thing should be appointed to any public position, should they?

Mr Kormos: I agree.

The Chair: Thank you, Mr Kormos. On behalf of the committee, Rev Campbell, we thank you for your brief.

FREDERICK STYLES

The Chair: I wish to call forward the next delegation, please. If you could have a chair, sir, and present your name for Hansard.

Rev Frederick Styles: I'm the Reverend Dr Fred Styles from Markham, Ontario, and I want to thank the committee for offering me the opportunity to speak in support of Bill 74. Through the years since my ordination in 1964, I have carried out hundreds of weddings, and for many years I have been concerned with the standard approach of many clergy to the marriage services for which they are asked to officiate. In 1970, I wrote a

secular marriage service to meet the needs of persons I encountered in my own ministry. These were individuals who were honest enough to admit, after we'd established a trust level, that they had no particular religious convictions at all and who found it offensive that at such a significant time in their lives they were being encouraged to give lip service to concepts they didn't believe and commitments by which they had no intention of living.

At the time, the only alternative was a civil service, a legal formality too often barren and sterile, stripped of beauty and dignity and often carried out in unpleasant surroundings. For many sensitive people, the civil ceremony has been a two-minute experience, leaving them bitter for years about the starkness of the service to which they had been subjected. Certainly there are those who chose the civil ceremony deliberately because of its lack of ritual, but others made the choice because they regarded the event as too significant to compromise with a religious ceremony that was simply meaningless to them. Their lack of convictions, or perhaps negative convictions, about religious matters should not cause them to be treated as though they have no appreciation for the importance of marriage or of the significance of the step they are taking in their lives.

In addition, a growing number of clergy would sooner not be involved with weddings for persons outside their denominations or, indeed, outside their own congregations. I encounter this frequently. Some have begun simply to refuse to carry out such services. But we live in a pluralistic society, as everyone is aware, with many religious faiths represented and an increasing number of persons who claim no association with any specific faith at all. This attitude creates a vacuum in which some persons find they must leave their social communities to be married elsewhere because there is no one licensed who will marry them in their own social setting. Even within my own congregation, from the counselling I have done with married couples, I can say that they rarely regard marriage as a primarily religious matter. They regard it as a commitment to one another in which their families and friends are involved as a community of concern.

Bill 74 would provide for marriage commissioners who would be authorized to carry out weddings without regard to the religious stance of those being married, with the realization that those who do have a religious association can then have the service blessed or solemnized by the religious leader of their choice in a specifically religious event. Indeed, there is a sense in which the religious ceremony, then, is not stripped of its dignity by people saying tongue-in-cheek things that they really don't mean.

1620

I believe this approach works well in other countries, European countries, where all marriages are regarded as legal and social ceremonies with the religious dimension given emphasis by those who wish it in a further ritual carried out within the specific context of the religious institution. I also believe that there are a number of persons available like myself, who are both experienced and capable of bringing to the office of the marriage commissioner the dignity and decorum that would make for memorable services, satisfying both emotionally and spiritually for persons, whatever their religious stance, in keeping with the style of life they have chosen for themselves.

That's my presentation, and I'd be glad to answer any questions people may have.

The Chair: Fine. Thank you, Reverend. Questions? Mr Hardeman, we have about seven minutes.

Mr Hardeman: Thank you very much for your presentation. I didn't get a chance to discuss it with the last presenter, but I believe you were present, and I just wondered maybe if I could get your comments on the issue of making sure that when we look at appointing commissioners that you appoint some clergy to be able to do that, to give people the opportunity to use a somewhat religious ceremony or a religious ceremony outside a church structure. Do you think it would be required that they be appointed or in fact that they could carry on doing what they do now if we didn't take that ability away from them?

Rev Styles: I don't really see it as necessary that clergy people be appointed, although that's obviously a choice; they're experienced and have worked with this before. But it seems to me that there are plenty of people. The issue of retired clergy came up and I think it's a pity that retired clergy who have many years of useful service left are stripped of their licence to marry simply because they've come to the end of their career in a congregation.

Mr Hardeman: In that vein, I guess my question really comes down to that we've heard a lot in the presentation that would direct us to, once the commissioners are appointed, it's not a competitive thing; it's not a choice of which commissioner the couple decides they want to choose but, in fact, every commissioner would be obligated to do the process. Is there not a concern from the clergy that that would cause a problem, that they would then be asked to do it in such a way that was not fitting to their own beliefs, if they were appointed commissioners and then fell into the realm of, "This is the way we do it"?

Rev Styles: Yes, that's certainly true for many clergy right now. Indeed, I have a wedding coming up at the end of this month in which the bride and groom specifically asked the minister who was to carry out their service for a non-religious service. They are not religious people; they wanted to have a service with dignity and beauty and something that would hold high the commitment they have to one another. But when he came to them with the service they had asked for, there was religion in virtually every other line, and they simply said, "We can't say this. We can't do it." So they came to me and said, "We've seen your service performed. We'd like to have it as our marriage service."

I've also had the experience of having Jewish or Muslim parents come to me and say their son or daughter is being married outside the faith and were very concerned about this. "But we've seen your service performed and

we feel that it has the spiritual qualities we'd like to have honoured in our children's wedding. Therefore, we'd like to use that." I think what you need to require of the marriage commissioner is that he or she be open to people different from themselves.

Mr Levac: Thank you very much for your presentation. Is there an opportunity to get that in writing, or do we get that from the clerk?

Rev Styles: The service?

Mr Levac: Your presentation today.

Rev Styles: Oh, yes, of course.

Mr Levac: Can we get that sent to the clerk? We'd like to have that some time. Thank you very much for that.

I guess maybe the question I have is, is there anything in the bill you see right now that you'd like to see modified or changed that would improve it—not necessarily kind of break it apart but improve it—and make it even better than it presently is?

Rev Styles: I felt it was pretty acceptable from my perspective. I've heard what some of the other presenters have said, and there may be value in that. From my own perspective, the bill is all right.

Mrs McLeod: Can I just express my appreciation? I thought your presentation was excellent and really responded to the concerns we hear from a number of people.

Rev Styles: Thank you.

The Chair: On behalf of the committee, Reverend Styles, thank you very much for coming forward.

DAVID MURDOCH

The Chair: I would now ask our next delegation, David Murdoch, if present, to come forward. Good afternoon, sir. We have 15 minutes. You may want to leave a few minutes at the end for any comments from committee members.

Mr David Murdoch: Mr Chairman and honourable members, my name is David Murdoch. I'm a layperson. First and foremost, I would like to make it known I support this amendment that has been brought forth by Mr Bill Murdoch, MPP for Bruce-Grey-Owen Sound.

On Saturday, March 18, 2000, I attended a wedding just north of Grafton, Ontario, which was performed in the Royal Canadian Legion Hall in Fenella, Ontario, by a justice of the peace. Prior to the actual ceremony I was speaking with the lady justice of the peace regarding another matter, and through our conversation she advised me that JPs would no longer be involved in performing marriage ceremonies in the future and that such ceremonies would be done by lay people. She had no specific information on the matter, other than changes were going to take place at some later date. She further stated that the government was now looking at the issue and was starting to prepare the way for making the necessary changes. She further said that if I was interested in getting involved, I should make it known to the necessary authorities. She went on to say that justices of the peace were now far too busy with matters pertaining to the courts.

I made a phone call on Monday, March 20, 2000, to the office of the registrar general and spoke with a gentleman. He advised me that the change was in its very early stages and that it would be some time before the legislation would actually be written.

The Toronto Daily Star reported on Wednesday, April 19, 2000, that the provincial government will allow marriage commissioners to do the job. The media reported over the radio earlier in the day that the position would be considered for retired civil servants.

I had been employed with the Ontario government, Ministry of Community and Social Services, from December 1, 1975, through to August 31, 2000. As a result of the government's downsizing, my years of service and my age, my window opened for the factor 80 program, for which I decided to take leave in early retirement. During this course of time I worked as a caseworker for 17 years. I dealt with caseloads from 490 families to 1,200 handicapped, aged, single and married individuals. In August 1992, I applied for the investigator's position, namely, eligibility review officer, and remained in that position until the time of my departure from community and social services.

During the course of my 25 years of service with social services, the position was quite demanding, with a great deal of responsibility. I was also a commissioner of oaths and affidavits within the position of caseworker/eligibility review officer. I have always taken my duties quite seriously and have conducted and discharged them responsibly and in a professional manner at all times. I have appeared in court and at appeal boards as a representative of the ministry on numerous occasions over the years dealing with decisions that were made by the director.

Over the past 12 to 15 years I have also worked as a freelance wedding photographer for a studio in Toronto and also privately. I have shot many different types of weddings, from the very small to the most grand or formal, and have witnessed many different wedding ceremonies, with a variety of traditions within the same religion but different nationalities and cultures doing things just a little differently.

I have seen wedding ceremonies performed with the greatest of care and with what appeared at the time to be little or no concern at all; in other words, just plain sloppy. The dignity and solemnity of the ceremony would be in the hands of the marriage commissioner, along with the desires of the couple getting married. However, I do believe the ceremony should be conducted in a way that is respectful and dignified, and the marriage commissioner should take every step to avoid anything being taken lightly. I must say the experience of religions, from Protestant, Anglican, Roman Catholic, Russian Orthodox, Ukrainian Orthodox, Jewish, Hindu and so on, has been fantastic and very educational at the same time. I have seen brides and grooms take and repeat their vows from the most formal to the point where I saw a

groom read his wedding vows from the palm of his hand. He wrote them on his palm because he was so nervous he couldn't remember them.

1630

I believe marriage commissioners are needed to fill the gap that is in our communities throughout Ontario, as there are so many people nowadays who want to be married but are just not ready, for whatever reason, to make any commitment to an established religion in order to get married in the denomination they may seek. On the other hand, many clergy are not in a position to perform wedding ceremonies, either due to their obligation to their church or personal beliefs. Some Protestants are more liberal and free than, say, the Anglican, Roman Catholic or Orthodox, as the latter are not allowed to perform wedding ceremonies outside the proper church building. Canon law forbids it. So for these people, garden and outdoor weddings are impossible. A few years ago a cousin of mine getting married just wanted a simple, quick wedding, so she and the groom ran off to the city hall and avoided the traditional trappings of a church wedding.

Costs to be married vary, like the styles and traditions of weddings, from one denomination to the other or, for that matter, from one church to the other. In the Christian world white envelopes are usually passed around at the rehearsal: one for the priest or minister, organist, caretaker, soloist and so on. Sometimes it's looked upon as a donation to the church and more often than not you are told what to put into the envelopes for the above. I knew one Anglican priest, for example, who, if you attended his parish on a regular basis, expected nothing of you at all. He regarded the matter as being his job as your parish priest to perform the ceremony without remuneration. The cost many years ago was a mere $50 for the officiant. Now it runs into the hundreds. Over the years I've listened to people complain about the cost of getting married in the Catholic Church, where they feel it should be done at no cost to them, especially if they are regular parishioners.

On one Saturday I was photographing a wedding at a golf course, and when I arrived I was seeking out the minister who was to perform the ceremony. He was a Welsh Methodist minister and he said to me, "We must not be late because I have another two weddings after this one, and this is my seventh wedding so far today." I came to realize he was a very busy man and he was also driving a very nice car—in fact, much nicer than my old jalopy. I also had a friend whose daughter remarried outside the Catholic Church due to a divorce and was remarried by a Unitarian Church minister. They were charged $350 for the ceremony. This is now going back a few years.

I would recommend that when considering individuals for marriage commissioners, they be licensed for the province of Ontario and not just the electoral districts, due to the fact that many family members and friends are so widely scattered throughout the entire community. It might be the occasional opportunity that a friend or family member who resides in Kapuskasing, Sault Ste Marie, Thunder Bay, Ottawa or even Kitchener-Waterloo may want a marriage commissioner who might be related to them to perform the marriage ceremony, rather than the local commissioner. The relative who is the commissioner may have a very special connection to the couple getting married.

Once the legislation has been approved and put in place, I have no problem with regulations and guidelines, as we, being responsible individuals, need to be held accountable, and there is nothing wrong with this concept. Perhaps if something should take place that could be taken or interpreted as being rather unorthodox, then that commissioner could be given some direction and guidance for the future.

I believe my years of service, experience and training as a social service worker and photographer have prepared and provided me with an excellent background for the position of marriage commissioner. I am quite interested in this new position being created by the Ontario government and believe I would be an asset as a marriage commissioner to the community and to the people whom I would be serving.

I take this opportunity to extend to you my sincere and heartfelt thanks and appreciation for giving me the opportunity of speaking to you today on such an important matter now before the government of Ontario.

The Chair: We have about two minutes till the next delegation. Mr Levac, do you have a comment?

Mr Levac: I appreciate the opportunity. Thank you for your presentation. It's obviously well thought out.

There has been a recommendation for the creation of a college that would take care of most of the issues you've talked about in terms of how far the people can go, who should be appointed and all that kind of stuff, and in terms of regulations and rules governing. What's your opinion on the creation of a college?

Mr Murdoch: Of costs?

Mr Levac: A college of commissioners.

Mr Murdoch: I wouldn't have a problem with that at all. I think perhaps it might be a good idea. The only thing I was making reference to in the legislation was putting in some specific districts. That is, say you had a friend or relative who was in Sault Ste Marie or whatever, that they would be allowed to perform that ceremony if they were so chosen by the relative, who might be a commissioner. That was the only thought I had. But as far as a college is concerned, I wouldn't have a problem with that.

Mr Levac: If you look at a lot of the other colleges that are already in place, a lot of that kind of performance is already taken care of within the scope of that particular college or group. They say, "You can do this. You can do this here or there."

Mr Murdoch: Yes. I wouldn't have a problem with that.

Mr Levac: I appreciate it very much. Mr Chairman, that's about all.

The Chair: On behalf of the committee, thank you, Mr Murdoch, for that presentation.

I would ask for our next delegation, Abba Ministries. No? We can call them forward at a later time.

FRANKLIN PYLES

The Chair: The next on our list is the Christian and Missionary Alliance. Is anyone present here? Good afternoon. We have 15 minutes, sir. You may want to leave a few minutes for any questions. May we please have your name for Hansard?

Rev Franklin Pyles: I'll be very brief, Mr Barrett.

My name is Franklin Pyles. It's a privilege to be before you today and to speak in support of Mr Murdoch's private member's bill, Bill Pr74. For 14 years I served as a pastor in Mr Murdoch's riding. Currently I am president of the Christian and Missionary Alliance in Canada, Canada's second-largest evangelical denomination.

I and my fellow ministers in Owen Sound, as you already heard from Pastor Campbell, suggested to Mr Murdoch that some changes to the Marriage Act would be appropriate, when as a result of budget cuts the civil servants in Owen Sound who were performing weddings ceased to do so. I'm not sure if this practice was uniform across the province, but for us it created a bit of a crisis in that folks who did not have a church or a religious affiliation and perhaps did not want one but who wanted to be married were forced to turn to clergy in order to get married. I'm happy to see that Mr Murdoch has followed through with a bill that opens at least a small window of opportunity to allow people to enter into matrimony in one of several ways.

From the standpoint of the province, marriage is a legal condition, a contract, and thus it's proper for the province to regulate who may officiate, but the law should create a situation that is broad enough so that someone can officiate. I believe Mr Murdoch's bill does that by creating commissioners. We create a number of people who will not see performing weddings as an option, as is the case sometimes with officials such as judges, but who will accept this as the purpose and duty that they have been appointed to and thus they will be available. I believe this will encourage those who wish to be married and add to the orderliness of our society and I ask the members of this Legislature to pass this bill. Thank you.

The Chair: Thank you, sir. That leaves a bit of time for comments and questions.

Mr Hardeman: Mr Pyles, we've heard, particularly today but even the last day we had hearings, about appointing the commissioners in the geographic areas, and I think there's a suggestion there should be six appointed in each geographic riding of the province. That would make 618 marriage commissioners. Would you see it as important that they were appointed to do the job just in their ridings—I think the last presenter spoke to that—or should you appoint 618 commissioners who could then be commissioners throughout the province?

Rev Pyles: I would certainly say their authority should range throughout the province. Pastors' authority ranges throughout the province to perform weddings, as do all the other officials' right. I certainly wouldn't limit them to a certain little spot. If, for whatever reason, they wanted to travel, that would certainly be fine.

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Mr Hardeman: If you had 618 appointed, would that be sufficient to suggest that it's an open market? We still have all the clergy providing the religious ceremonies, and for the civil ceremonies we have 618 people. Would the requirements, or saying, "You have to do it this way or you have to do that way"—could that be left to the people themselves to make that choice of who provides what and how?

Rev Pyles: Absolutely.

Mr Hardeman: That's what we need?

Rev Pyles: That's what we need. We need to create a window for those who need a civil ceremony and for some reason or another the judge or other folks can't do it, aren't available, and these people are available. I don't know that there would be enough so that this could be a living for someone, but this person would be available. So that creates that kind of an option for them; they can book them.

Mr Hardeman: Last but not least, on the same topic, do you think it would be important that the price would be set for what they are allowed to charge? Or if the marriage commissioner said, "I want $150," should the couple be allowed to shop for one who will do it for $100?

Rev Pyles: I'm not familiar with whatever regulation—I don't understand that. Would you put that into the bill? You wouldn't put something like that into the bill, would you? Is there some other way you would handle that? Probably they should all charge the same thing. Is there a way when judges do it? Is there a uniform price? I'm unfamiliar with how that side works. I would say it would be helpful if they were all charging the same thing. I don't know what your mechanism is.

Mr Levac: Thank you very much for your presentation, Mr President. Did I hear that right—president of the association?

Rev Pyles: Yes. I should also throw in here that actually I'm the one who instigated this whole thing.

Mr Levac: Good for you.

Rev Pyles: I talked to Bill back in the day and we all gathered and I talked to the pastors. We brought Bill in and he sat with all the pastors of the country sitting around him.

Mr Kormos: That's interesting. Bill said he had to drag you guys kicking and screaming into—

Rev Pyles: Yes, right. That would be something Bill would say.

Mr Levac: I did have a question. I want to follow up on what Mr Hardeman was saying about the 618 commissioners. The concern I would have is, if we did it at

large we may end up getting 600 from Toronto or 600 from Ottawa and then ask them to disperse themselves. Would you agree, though, that by district there should be enough to accommodate those people who have been saying to us in their presentations that there haven't been enough people available in the rural or small urban areas?

Rev Pyles: I guess I understood the question that they were resident in the ridings but that they had authority to exercise their—

Mr Levac: So the idea would be that their authority would be distributed through the whole province but we would still have them in the area. So if my uncle happens to live up in Thunder Bay and he wants to perform the ceremony for one of my kids, then he would come and still have the authority to do so.

Rev Pyles: Yes, that's what I understood the question was.

Mr Levac: I just wanted to make sure we were clear on that.

Further to that, there's another question I have about—I'm going to keep asking this now that I've been alerted to it; it's not in the bill—the creation of a college that basically has this oversight authority of this particular group of people, the commissioners, to ensure that we have met a standard and that we have practices and regulations that will be taken care of by the college. Can you comment on that?

Rev Pyles: I would say, just don't get too carried away with that. If there is some kind of a group, or self-regulating group, that's fine. Do you know what? Can I just be a little bit informal here with you? If a couple decides to live together in this province and they're living together for a year, basically the province says you're married. Do you know what I mean? That's not regulation. It's creating all kinds of—Nova Scotia is having a problem with that. They're having court cases and everything else. I can tell you all sorts of stories, just like David, but the point is that the person who does the wedding has to have some kind of comfort level with what's going on. They should have some authority to say no. This is sort of answering a question that came earlier from Mr Kormos. I don't think it would be a good idea to say, "You have to perform any wedding." There should be some authority of a person to say, "I get airsick. I don't want to do this in a hot-air balloon," or something. I just don't think we should get too carried away.

The point is, people want to get married. It's not a long thing. They want to get married. Basically, the main job of the person who officiates at the marriage is to walk them through some kind of promise to each other and to certify that this happened to the province. That's their main job.

Mr Levac: But you do see the value in some oversight, is what I guess I'm really getting at.

Rev Pyles: Some kind—

Mr Levac: Because I do refer to my friend on my left-hand side. Mr Kormos made comment about a ridiculous expectation so that we can come back with that oversight and maybe make a ruling.

Rev Pyles: I would say that they should reach some kind of agreement on prices and things like that.

Mr Levac: Thank you for that.

Mr Garry J. Guzzo (Ottawa West-Nepean): Reverend Pyles, I want to commend you and Reverend Campbell. As I understand it, what you're telling this committee today is that you approached the government member for Bruce-Grey-Owen Sound and you have experienced a positive reaction in having this bill come forward.

Rev Pyles: We have.

Mr Guzzo: I want to tell you that in my seven years here I've watched three whips and two Premiers attempt to do the same thing, and actually a whole caucus, without much success. So if you have the formula, I would ask you to make it available. Thank you for your presentation. I wouldn't say that if he were here to defend himself.

Rev Pyles: Bill would pull in behind my house with his truck, and I'd just go out and talk to him once in a while.

Mr Kormos: My apologies. I had to leave the room for a phone call.

As you know, the act prescribes only three sentences that are mandatory. There are three things that have to be said by the parties, led by the celebrant, and the form-filling. It's a relatively simple requirement in terms of what the legalities are, so I'm not overly concerned about the training element and so on.

I'm wondering if in terms of, again, the prospect of a college, which was proposed earlier this afternoon—granted, the Ministry of Consumer and Commercial Relations in its new status, a whole lot of things that it supervised have already been put out to self-regulation. Is there any reason why one of the existing supervising authorities—and I don't want to burden the Integrity Commissioner with any further jobs—the registrar general, for instance; is there any reason why the registrar general and his or her office could not ex officio perform this modest supervisory role, which is as much about keeping track of the paperwork and auditing it and making sure that the licences are filed? Is there any reason why it couldn't be done as simply as that?

Rev Pyles: I really have hardly any comment. Some kind of mechanism is the sort of thing you folks do. I really haven't thought through that aspect of it. I think we're looking for something on the ground. What's behind it, what kind of accountability these folks have to make sure they're doing the job—I would just caution you about setting up a group that would become a lobby in itself, an authority in itself and pretty soon you're paying these people or something like that. That's why I said it needs to be something simple, on the order of notaries public. You get the authority to do this and if you do it, you do it, and if you don't, you don't.

Mr Kormos: The other thing about fees, yes, judges and JPs are the only ones who are regulated. They have to charge $75 and it has to be remitted to the government.

Rev Pyles: That's why they don't have any motivation. I didn't know that. I didn't know how it worked. I knew there was something.

Mr Kormos: I suppose you could wrangle an invitation to the wedding reception, if there is one, depending on whether or not it's an open bar.

You talk about the prospect of setting fees. My understanding, when we heard from other pastors and clergy people here last week is that these are—does it range from a pastor or a clergy person telling a person, "This is my usual fee," to saying, "Whatever it is you want to give me"? Give us, in a couple of seconds, how that works.

Rev Pyles: That's how it works. If they wanted to give me something, I accepted it and it went into a certain fund. Some churches or their elders' board or whatever set a fee so that there's kind of a uniformity. So that's how it works. Sometimes they have a package thing because the church is doing quite a bit for them.

Mr Kormos: A choir.

Rev Pyles: No, they're usually doing extensive counselling or they have a certain person who does it, so there's a whole thing that goes through. There's extensive counselling. Sometimes the package may include the janitor, all these other things. Whereas we did charge for those kinds of ancillary things—you had to have somebody clean up and so on and so forth—but what I got was just anything they gave. Sometimes they gave something, sometimes they didn't; that was for the church when I was operating as a pastor.

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Mr Kormos: Because then the question becomes, if the interest is ensuring that people do get married, because of the legal implications and access to the Divorce Act and certain parts of the—subject to that east coast appeal decision—

Rev Pyles: It should be a reasonable fee.

Also, David was talking about them travelling and all that. To tell you the truth, that was something David was willing to do and I wasn't. He and I did these civil marriages in Owen Sound and I just told my secretary, "If they want to get married and have a civil marriage, they come here. I'll do it in the office. They don't have to do it in the church. I'll do it right here in my office or whatever, but I'm not travelling." I did that once or twice. I went off to Sauble Beach and couldn't find them. Forget it.

Laughter.

Rev Pyles: I'm serious. This is where your college comes in. For somebody who is reasonable, I don't think you can expect the commissioner to be driving all over and doing all kinds of crazy things. If there's anything the college or something like that would do, it would be to protect him or her from that sort of thing.

The fee should definitely be reasonable. It should be a modest fee, because people have a right to get married, they do. That's a basic, fundamental right the province should offer people.

Mr Kormos: It goes one further. These folks talked about e-mail or Internet access. Should there be a way of wrapping it up simply at the same time as the licence application is made, with the same officer, where there is no celebration, no ceremony, where it's simply an acknowledgement of the mutual obligations in terms of the law—end of story?

Rev Pyles: I didn't hear that. They weren't saying they would be married by e-mail.

Mr Kormos: No, they didn't suggest that. But they talked about using Internet as one of the means of obtaining licences. But should this go one further? The clerk performs a merely administrative function at city hall. Should that same clerk be allowed to have two parties sign—

Rev Pyles: As I recall, in Ontario—correct me if I'm mistaken—there is no waiting period. Or is there a waiting period between the licence and the marriage?

Interjection.

Rev Pyles: No waiting period; I'm correct in that. But in some places, there is. Of course, that used to be because of some protection.

I know you have probably heard enough anecdotes, but I was called once and this guy was saying to me, "I want to get married." I said, "Well, who do you want to get married to?" He said, "What's your name again?" on the phone.

Laughter.

Rev Pyles: I'm serious. This actually happened. So I said, "I don't think I really want to do this."

But there is a problem there, from the practical standpoint, of course. People sometimes rush in where angels fear to tread, so to speak. But actually, the law is that there's no waiting period. So I would have no objection to that. They buy their licence and the person who sells them the licence is right there and is able to do it if they want it.

Again, I feel that marriage is a foundational right of humanity. In all religions and all cultures in all human history, they have some way of people marrying. Think about that. That's a uniform thing throughout, as long as we can remember, in human history. In all cultures, they have some way for a man and a woman to say, "We're together and this is for life," and they go forward and this is a family. They have some way of doing that. They have different elaborate ways of doing it and different traditions, but it's a fundamental human thing. It needs to be as simple as possible and accessible.

So I would be very opposed to high fees or anything that would begin to make it another barrier, so that they go home and say, "Well, we can't afford it, so we'll just live together." If they want to live together—I have religious objections to that, but the point is it shouldn't be because they can't afford to get married. That's really sad.

The Chair: On behalf of the committee, I wish to thank you, Rev Pyles.

Rev Pyles: Give my greetings to Mr Murdoch, who I haven't seen in a while.

Mr Kormos: We'll tell him you were here.

The Chair: Rev Pyles, I just had a request—

Rev Pyles: Honestly, I didn't realize we had been doing that. I have it handwritten, which I'll give to you.

The Chair: The clerk can make photocopies if you would like a copy.

Rev Pyles: You may have it. I'll sign it.

Mr Hardeman: It will be in the Hansard.

Mr Kormos: Now it will be in the archives too.

The Chair: Thank you, sir.

TORONTO CONFERENCE, UNITED CHURCH OF CANADA

The Chair: I wish to call forward our next delegation, the Toronto Conference, United Church of Canada. Good afternoon, sir. If you could give us your name for Hansard, we have 15 minutes.

Rev Michael Kooiman: Thank you. My name is Michael Kooiman. I'm representing the Toronto Conference of the United Church of Canada. The United Church of Canada was asked, in a letter from the Honourable Norman Sterling, to comment on Bill 74 and to respond to specific questions concerning the experience of the church with regard to civil marriages in the province of Ontario. The Rev David Allen, the Toronto Conference executive secretary, related questions on civil marriage to the executive committee of our conference and, hearing their response, wrote to the minister and expressed the views of the church within the bounds of the Toronto Conference. This afternoon, I will review the motion of the executive committee of the Toronto Conference and elaborate on Rev Allen's response to questions posed by the minister.

By motion, it was agreed that the executive committee commend MPP Bill Murdoch for his initiative in Bill 74 to amend the Marriage Act to provide for the appointment of marriage commissioners. The motion further recommended that the bill be amended to include a requirement that commissioners be trained in relationship dynamics and that it authorize them to preside at the solemnizing of same-gender covenant marriages.

To begin, I would reiterate that the Toronto Conference is generally supportive of the concept of expanding access to civil ceremonies, particularly in smaller centres in Ontario. The Toronto Conference extends into the counties of Muskoka, Dufferin, Simcoe and Grey, and clergy in these areas are frequently called upon to perform ceremonies for couples that have little or no interest in the church. Given a local alternative, many of these couples would likely engage a marriage commissioner to perform their service. It is appropriate in a pluralistic society that persons seeking a secular or non-religious marriage ritual have access to such a service.

It is the wish of the Toronto Conference that the bill be amended to include a provision for training marriage commissioners in the area of relationship dynamics. Clergy in the church are trained to counsel couples seeking to marry on a Christian understanding of marriage, and also the nature and unique challenges of a marriage relationship. Marriage preparation will often include topics such as communication, conflict resolution, family systems theory, finances, sexuality and maintaining healthy boundaries. While there is no set curriculum within the church, it is the policy of the United Church of Canada that congregations be encouraged to offer marriage preparation as a means to promote healthy relationships.

It would seem appropriate that the person presiding at a service of marriage, religious or secular, would be able to act as a resource in the area of relationship dynamics. As a person with unique access to such an important moment in the life of a long-term relationship, the marriage commissioner must be able to respond to questions and offer direction in a meaningful way. The United Church of Canada, in a 1984 policy statement on marriage, affirmed that the church must work to redeem and care for the institution of marriage as a means to provide stability for society. The Legislative Assembly of Ontario, in sharing this goal, will seek to provide marriage commissioners with appropriate training.

The executive committee of the Toronto Conference also expressed the view that the Marriage Act be amended to allow marriage commissioners and, by extension, anyone licensed to perform marriages, to preside at the solemnizing of same-gender covenant marriages. While this view is not strictly within the scope of Bill 74, the executive felt it appropriate to restate a commitment to equal rights for same-gender couples in Ontario. When the Marriage Act is amended to include same-gender couples, whether by an act of this Assembly or by the courts, the ability to perform same-gender marriages should be extended to marriage commissioners, should they exist.

On behalf of the Toronto Conference of the United Church of Canada, I would like to thank you for the opportunity to appear before you today.

1700

The Acting Chair (Mr Ernie Hardeman): We have about three minutes per caucus for questions. We'll start with Mr Levac.

Mr Levac: I appreciate your presentation. Thank you very much. Is there an assumption by the conference that Bill 74 does not provide for that by not mentioning same-gender?

Rev Kooiman: It was added as an issue that the conference is concerned about, recognizing that it is outside the scope of Bill 74, which is dealing specifically with access and how it's facilitated. The issue of same-gender marriage is obviously an aside, but the conference executive felt it was an opportunity to restate that commitment.

Mr Levac: Because there was no assumption that it negates it, just that you wanted to bring it into the discussion?

Rev Kooiman: Right.

Mr Levac: I guess I will ask the same question. There has been some discussion and talk about variations of it,

but some kind of oversight in terms of a college or something like that. Do you have any comment on that? Was that discussed in your panel discussions?

Rev Kooiman: I think the concept of oversight would be helpful. I would probably lean toward Mr Kormos, that it could be done through the registrar general without some new elaborate creation. I think the issue is creating standards. Whenever the province appoints people to facilitate a role, I assume they have a mechanism, aside from creating a college, to ensure that there's a standard of training, that the person has the appropriate skill set to undertake that work.

Mr Levac: You've made reference to one of those issues, which would be the training in relationships—how to do that and respond to it.

Rev Kooiman: Absolutely.

Mr Levac: Is there an expectation, then, after the performance, that they would make themselves available to continue that debate for those couples? I've found that an awful lot of these programs are pre- and as soon as the marriage is over—boom! That's it. You don't hear from anybody again.

Rev Kooiman: Yes, it's certainly one of the unique advantages of the church, that we continue to offer ministry for anyone who seeks it out, including folks who have been married in the church. I have certainly experienced follow-up cases, where folks run into difficulty in their marriage and I'm the obvious person to turn to first because I performed the ceremony.

Mr Levac: And you performed the pre-, usually.

Rev Kooiman: And performed the preparation.

Mr Levac: Just to get this clear in my mind, in terms of what you're requesting regarding the counselling for relationships, there would be an expectation, in my opinion, of creating a relationship between the commissioner and the couple who are going to get married, and that there might be an understood expectation that it doesn't stop at the ceremony. There might be an expectation that the commissioner be called upon from time to time, if the relationship was formed, to be able to help them.

Rev Kooiman: It may be onerous as an expectation. One of the things that clergy are trained in is the art of referral and having a wide range of professionals available to help us to help others. I think certainly if a marriage commissioner is trained in human dynamics, they could recognize the nature of the difficulty and could make a really good referral to a professional in the community. So those contacts would be vital.

Mr Kormos: I come from down in Welland, where we have a great tradition of the old mission churches. Reverend Fern Sayles through the 1950s was extremely popular down in the south part of Welland with the mission church—All People's. There were people there of certain political persuasions, which also compelled them to abandon their Christian faith, or their belief in God even. But Rev Sayles was always there to perform the necessary marriages and funerals. You could have a little bit of God, no God or he could give you the full-God ceremony to accommodate you.

What surprised me, I've got to tell you—because my instincts said, yes, this is a good idea, but I told Mr Murdoch, "I've got to check with my clergy people down in Niagara," because my instincts also said, "Boy, I bet you some, especially ones who would identify themselves as being from more conservative branches of the clergy, would have objections to providing wider access to what I call secular marriages." And I haven't met any, which was contrary to what my mindset was.

Mind you, we've also had, I believe, no representation from other than Christian, or perhaps one non-faith person. So we haven't heard from any of the other religious traditions, which is unfortunate, I suppose. Are you aware of anybody from any of the various faith traditions that would object to this? I'm not asking you to stab in the dark—

Rev Kooiman: I can't imagine that they would. Certainly there must be someone, but a commitment to pluralism and a multicultural, multi-faith milieu is certainly prevalent in all of the churches. I would agree with one of the previous speakers that access could be construed as a right and that would be for folks of faith and folks of no faith at all.

Mr Kormos: OK. Thank you, sir.

Mr Guzzo: Reverend Kooiman, thank you very much for your presentation and your position in here. I would like to ask you a couple of questions. The last presenter made a very good point, a strong point, with regard to marriage being a right, the fee should be nominal and it should be user-friendly and facilitate—would you share that opinion?

Rev Kooiman: Yes. In particular in the area of access—my understanding of Bill 74 being about smaller areas and more remote areas in the province and difficulties in getting folks who could perform services and how onerous it had become for local clergy—I think that's essential.

On the area of fees, again, I think the position of the church is to encourage marriage commitments and when it becomes inaccessible financially, then that's a very troubling trend.

Mr Guzzo: Let me tell you my problem. I've performed a few marriages in my day. I spent 11 years on the bench and fulfilled the obligations at the courthouse and elsewhere from time to time. I don't necessarily disagree, but prior to going to the bench I practiced law—did a lot of family law, did a lot of divorce work. The nominal fee for marriage and the nominal fee for the marriage certificate are in stark contrast to the fees that were charged for some of the divorces. It seemed to me that anybody could get married; it was very, very inexpensive. But the divorces were to the other extent.

When I read this paragraph 5, where you're talking with regard to the individual performing being in a position to advise or, maybe you were suggesting, insist on a marriage preparation course or something of that nature, I want to tell you that in all the weddings I did over 11 years, not only did I never get into that, but I certainly would not have felt competent to do so.

It brings up the other point. We had a retired judge here the other day, His Honour Judge Scott, making a presentation about where he lives, in a nursing home down the way, where senior citizens from the nursing home were coming forward. The reaction in the committee of people who were here at the time suggested there's a case where you wouldn't need anything in the way of advice or preparation. As a lawyer, I can tell you that is definitely contrary to the first reaction in terms of the legal advice and the estate splitting that would take place. I find that extremely troubling. It's a very complicated area. It's a very sophisticated and capable, professionally trained member of your profession who is in a position to do that. As a matter of fact, when I watch the marriage preparation courses in my church, the priest doesn't do much of it. Experts from elsewhere in the community are called in for the seminar-type situation. I don't know where we're going to find commissioners who could ever be in a position to fulfill the obligations there would be if we were to take them on.

Rev Kooiman: My assumption is that if you appointed 600 or 300 commissioners, and you required workshops—it wouldn't have to be elaborate. I think, for example, the seniors' home that you described—someone who knows to ask the couple what their children feel about this. I mean that's a very simple question. It's obviously going to be the most vexing issue or potentially vexing issue in that particular situation.

Mr Guzzo: And the answer is, "They don't know; we're going to surprise them."

Rev Kooiman: That's right, it'll be a surprise.

Mr Levac: "It's none of their business."

Rev Kooiman: Or it's none of their business, yes.

I guess a lot of what I do is to ask the right questions, or try to ask the right questions. I interviewed a couple seeking to be married and the bride's mother came along, and she answered all the questions. That highlighted for me that there were some future relationship difficulties on the horizon.

Again, it's some basic training, sensitivity to relationship dynamics, issues that may confront a couple, and hoping that folks are sensitive enough to see issues and make referrals or, in some cases, discourage them from being married.

Mr Guzzo: Thank you for being here.

The Chair: Thank you, Reverend Kooiman. On behalf of the committee, we appreciate your coming forward.

I'll just call again—there was one delegation we have not heard, Abba Ministries of Canada. I'm assuming they're not here this afternoon.

Before we adjourn, there will be a subcommittee meeting immediately after we adjourn.

Mr Levac: I'm sorry for doing this—just a question to Mr Guzzo. The piece of paper we received from the government, the Attorney General, indicated concerns raised for retired judges. I don't know if you've got an opinion on that or not, but do you get the impression that they're saying they hope they didn't get involved in this unless they became commissioners only? I don't know if you had a chance to digest—

Mr Guzzo: I think what His Honour Judge Lennox is saying is, "I don't want to have any responsibility for it, so make them commissioners, and whether they're retired judges or otherwise, they won't have to reflect on anything I do."

Mr Levac: That's basically what I was after, but I wanted to get someone's opinion who happens to be in the field.

Mr Guzzo: That's Judge Lennox, formerly of Ottawa.

Mr Kormos: To be fair to Judge Lennox, and I'm prepared to be—

Mr Guzzo: You're going to be fair to a judge?

Mr Kormos: I've always been fair to judges, Mr Guzzo. As a matter of fact, on the contrary, I'm convinced that they've not always been fair to me or my client.

The impression is that he's suggesting that a retired judge perhaps may not fall into a role that can be supervised. But I think all that does is invite this committee perhaps to recommend to the author of the bill that retired judges—although one can't say that ex officio they are marriage commissioners—be deemed appropriate candidates for marriage commissioners.

Mr Hardeman: I think it's a non-issue. If they're appointed, they're appointed; if they're not, they're not.

Mr Kormos: I leave it at that. Just trying to be fair to Judge Lennox. I hope you'll pass that along to him next time you see him.

Mr Guzzo: Judge Lennox is saying, "I have no control over retired Judge Scott, so if you want to make him a commissioner, then you put the controls on. Don't assume I have any."

Mr Kormos: Yes, exactly.

The Chair: Thank you, committee members. I'll now adjourn the committee.

The committee adjourned at 1713.

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STANDING COMMITTEE ON JUSTICE AND SOCIAL POLICY

Tuesday 25 June 2002

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE ET DES AFFAIRES SOCIALES

Mardi 25 juin 2002

The committee met at 1541 in room 151.

MARRIAGE AMENDMENT ACT, 2002
LOI DE 2002 MODIFIANT LA LOI SUR LE MARIAGE

Consideration of Bill 74, An Act to amend the Marriage Act / Projet de loi 74, Loi modifiant la Loi sur le mariage.

The Chair (Mr Toby Barrett): Good afternoon, everyone. Welcome to this regular meeting of the standing committee on justice and social policy for today, June 25.

Our agenda today is clause-by-clause consideration of Bill 74, An Act to amend the Marriage Act. The committee has received a number of amendments. I think at this point we can commence. I would pose the question, are there any comments, questions or amendments? We'll begin with Mr Kormos.

Mr Peter Kormos (Niagara Centre): I have copies of both the Liberal motions—three of them—and the two government-submitted motions.

First, I want to say that many thought the hearings—I recall the subcommittee meeting—would be impoverished by virtue of poor attendance. Many thought that was going to be the case. But on the contrary, it was clear that there were a significant number of people who were interested in this bill.

I was impressed by the fact that not a single participant in the hearings spoke against the bill or the proposition of marriage commissioners and so-called secular marriages. I was also impressed by the fact that a number of people from the faith community came forward and endorsed the bill. I was disappointed, and without any criticism, that we didn't hear from people representing faith communities other than the Christian faith, because I would have been interested in what other faith communities had to say about this. I can only draw the appropriate inference from their non-response or their non-participation. Indeed, when we had a representative of the United Church of Canada here yesterday, I asked him whether he was aware of any leadership in any faith community that would be opposed, and although that in and of itself isn't comprehensive, he indicated no. Indeed, contrary to what the Minister of Consumer and Business Services would have us believe, there seems to be substantial support for this proposition. It's been a practice in many other jurisdictions.

I think it addresses a whole number of issues and problems out there that people have had getting married. As I say, I think there is an interest. We have an interest, all of us, in people, if they're going to live married lives, unless they consciously make the choice not to be married, knowing what that entails in terms of the exposure or liability they have.

At the end of the day, it's a couple of things. First, it means you can't access the Divorce Act. The Divorce Act is not available for people who aren't legally married, notwithstanding what's happening on the east coast in terms of the appellate court decision regarding the status of common-law spouses. The status of common-law spouses, which is being heard in the appellate courts in eastern Canada, deals only with the equivalent of the Family Law Act and its applicability to common-law spouses. Obviously if that ruling is won in favour of common-law spouses and is adopted in Canada or is approved by the Supreme Court of Canada, then this statement won't be applicable to people with respect to the Family Law Act. So the Divorce Act is inaccessible to people who do not marry.

Second, certain provisions, certain parts of the Family Law Act are not available. Accessing those acts can cause grief and chaos, but the inability to access them and rely on them can cause grief and chaos for the parties.

Having said all that, I am pleased and supportive of the legislation. I was supportive before, as is indicated by my second reading comments in the Legislature.

I don't know where the Liberal caucus is or the position it's going to take with respect to its amendments, because I only read the signals that are inherent in the two amendments. There are but two amendments from the government, yet at the end of the day those two amendments, since there are only two sections to the bill, rewrite the bill. But to be fair, they don't detract from the intention of the bill. What they do, in my impression, is relegate a good chunk of the structure and timing to regulation rather than being incorporated into the body of the bill.

I had some concerns about the cap that was imposed in the bill on the number of commissioners per riding. Mr Murdoch has been very fair about that. He had to pick a number and he started with six. Obviously in some ridings six may be more than sufficient and in a whole lot of ridings six wouldn't be sufficient. I'm not as interested

or concerned about the fact that there might be too many marriage commissioners. I don't see this as an activity in which we have to control competition, because I don't see this as something that people are going to be embarking on as a means of earning an income, for instance. They're doing this as a service to their community and because they have an interest in parties who want to submit to a marriage ceremony.

I see the two government amendments. As I say, the message is clear that the government members, short of an outright rebellion—if indeed Che is still in the government caucus as a revolutionary, if Che hasn't been sent to South America to be hounded by the CIA and is still in Havana, we might see a rebellion here once again. People might stand up to the heavy hand of the House leader's office, or wherever the heck it was that these amendments came from, and say, "No way. We're going with Bill Murdoch on this and we're going to defy the government." It is an exhilarating experience. I don't have to explain that to Mr Murdoch or Mr Guzzo but I'll explain it to the other two government caucus members. It's a liberating feeling to stand up in defiance of the government and say, "I'm here because my constituents sent me here. I'm not here because of Ernie Eves or Mike Harris; I'm here because of the folks in my riding. If I'm going to be beholden, I'm going to be beholden to those folks, not to Ernie Eves or Mike Harris or the government House leader." I tell you, it's a liberating feeling.

Mind you, having said that, if the two more conservative members of the caucus, if you'll forgive me, at least the ones who haven't to date demonstrated any rebellious instincts, are inclined to vote with their House leader—there are two who have shown independent minds and spirits, and they, being joined by two opposition members, could find themselves victorious.

I'm looking forward, first of all, to seeing who moves the government amendments and whether Mr Murdoch is going to let himself be humiliated in this way. He's a man of pride, he's a man of dignity, he's a man who has respect from me and who—

Interjection.

Mr Kormos: Well, no, I'm up in his riding from time to time. Folks from his riding come down to Niagara Centre and they speak well of Billy, and I have been inclined to speak well of Mr Murdoch, even in public forums, be it radio interviews or what have you, up in the part of Ontario where he lives. So he is a man—

Mr Joseph N. Tascona (Barrie-Simcoe-Bradford): It's part of the north.

Mr Kormos: I call it the very near north. Only a person from Barrie would consider that anything akin to the north. North Bay people, they figure, heck, Bruce-Grey is the banana belt.

I'm interested in seeing who moves these government amendments. Please don't submit Mr Murdoch to the indignity of having to move amendments that were imposed on him, forced on him. Please let the Vice-Chair or parliamentary assistant move those amendments, because Mr Murdoch is a man held in high regard. Don't humiliate him. Let's carry on with this process and see what we end up with at the end of the day. I hope it's a bill that can come to fruition at some point in the near future.

1550

Mr Bill Murdoch (Bruce-Grey-Owen Sound): Thanks, Peter, for those kind words. I certainly appreciate them. I'll be looking forward to Peter's comments in the House when we get this bill to the House and hopefully—

Mr Kormos: Third reading?

Mr Murdoch: Yes, for third reading.

Mr Kormos: Get your House leader to call it for third reading debate and I'll be pleased to speak to it.

Mr Garry J. Guzzo (Ottawa West-Nepean): He was the campaign manager for the House leader in the last leadership. Do you think he hasn't got enough authority—

Mr Kormos: He's tight.

Mr Guzzo: He's very close.

Mr Murdoch: Tight, yes.

Mr Kormos: So the House leader is obliged—

Mr Guzzo: They got 4% of the popular vote, too.

Mr Kormos: On a point of order, Mr Chair: When you think that in most polls the margin of error is 4%, Mr Stockwell could have gotten no votes.

Mr Murdoch: He might have got zero; he might have got 8% too.

But if we could get on with this legislation, I have no problems with the amendments. They change the bill, certainly, since we only had two clauses and both amendments to each clause, but I'll go back to when we first started this bill. I think Minister Runciman was the minister at the time. Again, I think we have the same bureaucrats we had here the other day to have to listen to and they didn't really want this bill. I think that's what happened. I wanted the bill and I didn't mind if the ministry even took the bill and put it as a government bill. It would have been fine with me.

The problem we have out there is that some people just can't get married and they have the right to get married, but not the way they'd like to. We make that right but we don't give them the chance to do that. So I think with the amendments, the bill still stands. Maybe it's less tied down than the way I had it, but as Peter said, I had to have some numbers in my bill. I had to put something there and I picked six, and I picked a three-year term. I don't mind it being open. I think the government amendments allow that.

The only problem I have with the last amendment is that cabinet has to go back to the Lieutenant Governor and make sure this is approved. Let me tell you, I'll make sure that happens or the cabinet will hear about it. So that will happen.

If we approve it on Thursday night, it doesn't automatically mean it's approved then. We have to wait some time again. But I understand that's because there

are some things the ministry will have to approve and set up.

Again, I appreciate all the kind words Peter has said. I used to interview Peter, too. He can tell you why we both wear cowboy boots in this place. Sometimes we need them, especially when we're in the House. We'll let your minds figure that out.

I think Mr Tascona, as parliamentary assistant, probably has something to say, and I think David over there for the Liberals will have something to say. I'm going to jump ahead and appreciate his support too, because I think he has been supportive all along. So let's just get on with this bill and get it finished and into the House.

Mr Dave Levac (Brant): If we want to move forward on this, we can just put the motions on the floor and start dealing with them. I think that's what we're supposed to do.

I do want to make one observation. Yesterday, Abba Ministries was unable to attend for some reason. We have their comments before us and I would just bring to the attention of all our committee members the fact that they've had their voice heard. I wouldn't want them to think they hadn't had their voice heard in committee from yesterday. They've offered us a written submission that I believe should be reflected in the minutes.

The Chair: Thanks for saying that. I should have mentioned that. They were on their way here and they had a minor traffic accident.

Mr Levac: That's unfortunate. I hope no one got hurt. Did I hear it was minor?

The Chair: Minor.

Mr Levac: The first motion we've provided is moved by myself.

I move that section 24 of the Marriage Act, as set out in section 1 of the bill, be amended by adding the following subsection:

"Restriction

"(1.0.1) Despite subsection (1), no person who issues a licence under section 11 shall solemnize marriages under the authority of that licence."

Just speaking to that very briefly, I would be open to comments on that particular issue as I've submitted that on behalf of a group.

Mr Kormos: I was going to ask for some sort of explanation. You'll recall, Mr Levac, that yesterday I asked some folks who were at the committee about the most basic and secular sort of marriage, one wherein there is no ceremony, because it's all about the legalities. It's all about being legally married, and that is, attending at a clerk who is entitled to issue a licence and, once you have a licence, complying with the literal three requirements of the Marriage Act, the three declarations that have to be made—two by the parties and one by the person doing the formalities—and then saying, "Fine, we're out of here."

I appreciate the arguments and criticisms that could be made about it, especially if it were young people. But we talked about senior citizens with Judge Scott and, heck, as far as I'm concerned, if two 70-year-olds, who are probably as familiar with all the implications as anyone, simply want to go through that to establish the legal obligations of marriage to each other, I think they should be entitled to.

I don't know whether the purpose of this is to suggest that there's the risk of fraud being perpetrated or to imply that there should be a waiting period when in fact the law doesn't require one. Perhaps you could deal with the rationale.

Mr Levac: If I may, as you were describing that, there was just a concern that there may have been an absence of people understanding that the religious aspect of that did not necessarily mean that if it was performed by anyone, the solemnization inferred some type of affiliation.

Mr Kormos: Where's that?

Mr Levac: In the presentation from—what's the gentleman's name, from yesterday?

Mr Kormos: I don't know.

Mr Levac: The consultant. Just a second, I have his name.

Mr Kormos: Mr Carson and company.

Mr Levac: Carson, yes. Just the removal of the expectation that there would be anything else other than a civil expectation in the commissioner.

Mr Kormos: But this doesn't—how does it do that?

Mr Levac: It actually doesn't.

Mr Kormos: Then why are you moving it?

Mr Levac: Because I was asked to provide that by the person presenting.

Mr Kormos: You're obliging those people.

Mr Levac: I'm obliging those people to provide them with an opportunity to have their voice heard here and to understand if there's any rationale from the government side to say this is not acceptable. I would prefer to go to Mr Murdoch on this one.

Mr Kormos: So you find this amendment indefensible.

Mr Levac: Not necessarily indefensible. I saw the point they were making, Mr Kormos.

Mr Murdoch: I don't think we need it. I think the two amendments that we have—not because I'm in the government; I don't always agree with them. But they satisfy me and I think we can just get on. As David said, let's get on and get this thing over with. If you're OK with that, let's just—

The Chair: I'll go to Mr Tascona.

Mr Murdoch: If you want to go for a vote, let's do that. Let's have a vote on it.

The Chair: Let's hear from Mr Tascona and then when the members are ready to vote—

Mr Tascona: On this amendment, essentially, under section 11 of the act, the people who can issue marriage licences are the clerks of every city, town and village. There are even broader powers with respect to the minister in terms of who they can appoint, being the clerk of a township, a resident of a territorial district or a member of a band on the band council's recommen-

dation. What this amendment would propose is to remove clerks in particular from being able to solemnize marriages. We wouldn't be in support of that. I think we've heard from the presenter of the bill in terms of what his thoughts are and from the member of the NDP. So we wouldn't be able to support that.

Mr Kormos: Mr Levac has moved this amendment and I would dearly love for him to explain to me what it achieves and why he supports it.

The Chair: Is there any further discussion? Are the members ready to vote?

Mr Guzzo: Let me explain the problem. I think it's a very good amendment for the north or for small-town Ontario, but it will not work in a major city.

Let me tell you my experience. This one never happened when I was doing weddings on the bench. I would never succumb to something like this. But as a member of Ottawa city council, I remember on numerous occasions getting a call from a priest or a minister on Saturday morning saying, "I've got a wedding and they didn't get their licence." The three-day waiting period was in effect at the time. The city clerk was a neighbour of mine. That would happen so often that he would bring them home on Friday nights and have them there and issue them, so he wouldn't have to go into the office. But you had the three-day waiting period, and notwithstanding that, they all went ahead. I think that's what the intent is, to protect against that, but it's happening anyway.

The Chair: Any further discussion?

Mr Kormos: Is that your position, Mr Levac?

Mr Levac: It's been my position all along, Mr Kormos.

1600

The Chair: Any further discussion?

Mr Guzzo: It's going to be a problem in small-town Ontario. It's a very good amendment for Toronto and Ottawa but—

The Chair: Are the members ready to vote? We have a motion on page 1 moved by Mr Levac. All those in favour? Those opposed? I declare this motion lost.

If we turn to page 2, we have a Liberal motion.

Mr Levac: I move that subsection 24(1.1) of the Marriage Act, as set out in section 1 of the bill, be amended by striking out "shall appoint" and substituting "may appoint."

The Chair: Any discussion, Mr Levac?

Mr Levac: This one was to provide flexibility instead of making it mandatory.

Mr Kormos: I am shocked at this amendment, Mr Levac.

Mr Levac: I'm glad, Mr Kormos.

Mr Kormos: Don't you know what was going on up in North Bay a year and a half ago when the Premier of the day wouldn't appoint a new judge? Remember that, Mr McDonald? There was a vacancy on the provincial bench. Because it was discretionary and because one can only conclude whatever one wishes to conclude, it would appear that the Premier was unhappy with the people whose names were being put forward by the committee that approves potential judges, so the Premier didn't appoint a judge. You were getting phone calls about it, I know. I know we were getting phone calls about it, saying, "What is going on here? Has the Premier of the day, Mr Harris, returned political patronage to judicial appointments? We thought it had indeed been abolished."

I'm frightened by this amendment because when it says "may," it means that the appointing board or agency can drag its heels and not appoint anybody until, let's say, they get the right persons to consider.

Look at what's been happening. Look at what's happened in Ottawa, where the city put forward two capable people as appointees to the district health council and the government says, "We're not appointing either of them." On the contrary, there's got to be a mandatory requirement of appointment or else the government can play patronage games. I'm afraid, with regret, that I can't support your motion in this instance.

Mr Guzzo: You make a good point but you're in error on that situation with the health council—

Mr Kormos: And you're going to correct me.

Mr Guzzo: —because it is mandatory.

Mr Kormos: Well, they still won't do it.

Mr Guzzo: And they still won't do it.

Mr Kormos: Oh, for Pete's sake.

Mr Guzzo: So you try and figure that one.

Mr Kormos: It's like breaking the law.

Mr Guzzo: I just want to say with regard to the judicial appointments, what was your argument in the days when the judicial council was approving those people to be appointed and they dragged their feet?

Mr Kormos: Well—

Mr Guzzo: No. I wouldn't criticize them either if I were practising law.

Mr Kormos: I'm sure I've criticized virtually every body, organization and institution, elected or unelected. I've been irreverent to each and every one in this province and beyond at least once during the course of my adult life. I'm sure of it.

Mr Guzzo: You used to park your car in the judges' parking lot in Welland. I remember that.

The Chair: Any further debate? The period for delegations finished yesterday. We're now doing clause-by-clause.

Seeing no further debate, are the members ready to vote?

Mr Kormos: A recorded vote, please.

The Chair: This is a vote on a Liberal motion found on page 2.

Ayes

Levac.

Nays

Guzzo, Kormos, McDonald, Murdoch, Tascona.

The Chair: I declare that motion lost.

If we turn to page 3, we have a Liberal motion.

Mr Levac: I move that section 24 of the Marriage Act, as set out in section 1 of the bill, be amended by adding the following subsection:

"Regulations, marriage commissioners

"(1.4) The Lieutenant Governor in Council may make regulations respecting any matter pertaining to the governance of marriage commissioners not covered by subsections (1.1), (1.2) and (1.3), including their training, their registration, the standards required for the performance of their powers and duties, their remuneration, their disciplining and their dismissal."

This was brought up by several people when I asked about some type of governance. They would request some type of guidance within that framework, so that's why this is being proposed.

The Chair: Further discussion?

Mr Kormos: I think this is a good amendment and I'm going to support it.

The Chair: Any further discussion? Are the members ready to vote?

Mr Kormos: A recorded vote.

Ayes

Kormos, Levac.

Nays

Guzzo, McDonald, Murdoch, Tascona.

The Chair: I declare this motion lost.

If we turn to page 4, we have a government motion.

Mr Tascona: I move that section 1 be struck out and the following substituted:

"1. Subsections 24(1) and (2) of the Marriage Act are repealed and the following substituted:

"Civil marriage

"(1) A judge, a justice of the peace, a marriage commissioner or any other person of a class designated by the regulations may solemnize marriages under the authority of a licence.

"Regulations, marriage commissioners

"(2) The Lieutenant Governor in Council may make regulations,

"(a) authorizing the person or body specified in the regulations to appoint persons or classes of persons as marriage commissioners;

"(b) respecting any matter pertaining to the governance of marriage commissioners, including their appointment, their training, their registration, the standards required for the performance of their powers and duties, their remuneration, their disciplining and their dismissal.

"General or specific application

"(2.1) A regulation made under subsection (2) may be of general application or specific to any person or persons or class or classes in its application.

"Classes

"(2.2) A class described in the regulations made under subsection (2) or under clause 34(g) may be described according to any characteristic or combination of characteristics and may be described to include or exclude any specified member, whether or not with the same characteristics."

The Chair: Mr Tascona, do you have any comments on that motion?

Mr Tascona: No.

The Chair: Further discussion?

Mr Kormos: I think this is outrageous. This is an effort to humiliate Mr Murdoch and to undo all of the work he has done with respect to this bill. This amendment repeals 90% of the bill. It repeals all of section 1 and there are only two sections in the bill.

I think it's insulting to Mr Murdoch to have this amendment put forward. I think it insults his staff, who worked hard with him on the bill. I'm confident that Mr Murdoch and his staff are outraged, although they may be reluctant to express that outrage.

I'm certainly upset by this. I find this simply beyond insulting, that an honourable member like Mr Murdoch would be treated in this way. I for one am going to stand up for Mr Murdoch. I'm not going to let an honourable colleague be kicked around by a bully government that won't let private members' public business take its natural course. That's what private members' public business is all about.

I'm going to stand with Mr Murdoch on the bill as he drafted it. It's the bill I've been supporting. I'm going to oppose this amendment.

Mr Tascona: When you look at what's being proposed here under "Civil marriage," subsection (1), certainly the intent and purpose of what Mr Murdoch is proposing is intact. We're looking at "a judge, a justice of the peace, a marriage commissioner or any other person of a class designated by the regulations." Under the regulatory powers, it gives a certain flexibility which an act such as this would require, because the intent of what Mr Murdoch is trying to accomplish here is to provide people able to perform and solemnize marriages. That gives it that flexibility. That's why you use regulations. It authorizes these people to solemnize marriages. It doesn't direct them, but it gives the flexibility to authorize this to happen.

The regulations part that is put in there is consistent with the intent of subsection (1), what the member is trying to accomplish here with respect to providing for the types of persons or class of persons for this to be able to happen.

In speaking with Mr Murdoch, the regulatory impact of what we're trying to accomplish here is consistent with what he's trying to accomplish, which is to make sure that there is flexibility: you don't have to go back and keep amending the act to make sure you've got the right people out there to do it. What is being proposed is consistent with the intent and purpose of what he is trying to accomplish.

That's all I can comment at this point in time. The member himself may wish to comment.

1610

Mr Murdoch: I appreciate Mr Kormos's sticking up for me. I always appreciate it when he sticks up for me in any discussions we have.

I've looked at the amendments and I've been assured by the staff from the ministry that this will work.

Mr Kormos: Maybe it's the Stockholm Syndrome.

Mr Murdoch: No, I don't think so. I would ask Mr Kormos to vote with us on this. As I said, it actually opens the bill up.

I will live with it. I've always wanted the bill. It doesn't matter whether it's in my words or the ministry's words, as long as it works to help the people out who need this bill—and there are a lot of people out there who need it. As I say again, if this works with the ministry, I can live with it.

You're right. It changes the bill, there is no doubt. But I have worse things that I may argue with the government on than this. I appreciate the fact that Mr Kormos is sticking up for me, but I would ask him to vote with us on this.

Mr Levac: After hearing what Mr Murdoch just said—I looked at the two sections, and in the first part I didn't see much of a change. Then all of a sudden I looked at the differences between the two and the amendment that I had offered. The third amendment I had offered tried to take care of the regulations that were discussed from the other day. I didn't see that. I saw it as very loose. In your version, it seemed to be a little tighter. I think probably the rationale is to provide that flexibility. I'm hoping that's the intent and that's the purpose of the government's amendment. If that's the case, then it does address what you were talking about.

Since you yourself are comfortable with it, I can support it. But I'm still a little concerned about that portion of the bill that didn't get closed up from what you were discussing during this particular time period, so I will be very cautious in my support.

Mr Murdoch: I just want to say that I appreciate that, Mr Levac. I think sometimes you have to give a little to get what you want, and this is what we want. We want a bill and we need the ministry working with us on it. If we don't, then we're going to have problems and I'm going to be fighting with the ministry forever, saying, "When are you going to do this? When are you going to do that?"

I think what we are accepting allows us to work with everybody, and in the end we get some marriage commissioners. Sometimes you've got to give and take. As you know, in this political game that we're in, that sometimes works. So I'm willing to take a chance on it and work with it.

Mr Kormos: Mr Chair, how can we be sure Mr Murdoch isn't being forced to say that? He's using phrasing like "compromise" and "give and take," which I can tell you are not part of his normal vocabulary. I think there is something very suspicious going on here. I am quite frankly fearful of yet more underhandedness on the part of the government. I encourage my Liberal colleague to stick with the real Mr Murdoch, to vote against this amendment, and let the Murdoch bill prevail.

Mr Murdoch: Just one thing about that: I haven't been forced on this one, Mr Kormos. There may have been other times they tried to twist our arm.

Mr Kormos: Have you been drugged?

Mr Murdoch: After spending some time in Cuba, I know Che compromised sometimes too, and so did Fidel. He had to do that to win. So if we get what we want in the end—

Mr Kormos: Don't start that argument with me.

Mr Murdoch: I've watched the history of Cuba and that. If you get what you want in the end—stability; that's what we want. In the end here, we want some marriage commissioners.

Mr Kormos: If he did compromise, where did it get him? It got him sent to Bolivia.

Mr Murdoch: No, not Che. He wanted to go there. You've got to read the history.

Mr Guzzo: First of all, let me say with regard to my colleague Mr Murdoch's comments about giving a little to get a lot, for some of us here, when our ship comes in, it will be an ocean liner.

When I got this bill, the first thing I did was take a look at the Marriage Act. It was calling for a repeal of 24(1) and I read 24(1). What does 24(2) of the Marriage Act say? I didn't even read it.

Mr Kormos: It's a restriction on locations for judges.

The Chair: We'll ask for a reading of that, please.

Mr Michael Wood: Subsection 24(2) of the Marriage Act reads as follows: "The solemnization of a marriage by a judge shall take place in the judge's office and shall be performed between the hours of 9 o'clock in the morning and 5 o'clock in the afternoon."

Mr Guzzo: I thought that's what it was. It has been a long time since I had any reason—you're asking me at this point in time to vote to repeal that?

Mr Murdoch: Yes.

Mr Tascona: Just responding to the members, with respect to what I think the Liberal member was referring to, the regulations provide for some standards to be set, certainly, in the areas we're looking at in terms of the governance of marriage commissioners, including their appointment, their training, their registration, the standards required for the performance of their powers and duties, their remuneration, their disciplining and their dismissal. That is, in essence, what I think the member is saying in terms of what he wants to see happen. So there are some standards out there so they know what to do in terms of working with the ministry.

I also would point out that the bill is still named after Mr Murdoch. It's still Bill 74. It's still consistent. We didn't change that.

Mr Murdoch: Just one thing, to ease the concern of Peter's that I've been whipped into this. Don't think I've been whipped in, because the whip is sitting here. He's been trying to whip me ever since he got the job and

there's no way I'm going to let him do that. I think he's just here out of interest.

The Chair: I'll ask the committee if there is any further discussion or debate. Are members of the committee ready to vote?

Mr Kormos: Recorded vote.

Ayes

Levac, McDonald, Murdoch, Tascona.

Nays

Guzzo, Kormos.

The Chair: I declare the motion carried.

We have a government motion on page 5.

Sorry, Mr Tascona. We now have an amendment to section 1. I would now ask, shall section 1, as amended, carry? Carried.

We now go to page 5, a government motion.

Mr Tascona: I move that section 2 of the bill be struck out and the following substituted:

"Commencement

"2. This act comes into force on a day to be named by proclamation of the Lieutenant Governor."

The Chair: Is there any discussion?

Mr Kormos: As if the assault on this bill wasn't complete enough, now we have what represents the potential for it being a thorough gutting. This is, "If we want to, then we'll send it off into legislative-orbit section." On a date to be proclaimed by the Lieutenant Governor: that means this bill can pass third reading yet never become law—ever, ever. This is the government House leader-whip's sucker shot. This betrays a level of evil that has probably not been seen before in this building, here in the assembly.

I caution my colleagues on this committee: don't be trapped by this bit of legerdemain on the part of the government capos. Resist this effort to put this bill into the trajectory of legislative orbit.

Mr Tascona: It is 20 after 4 on Tuesday, June 25. The measures we've already carried just moments ago in section 1 in terms of putting together the governance of marriage commissioners, their appointment, training, registration, standards required for the performance of their powers and duties, that's not something that's going to be accomplished by Thursday, June 27. So I think there's some need for the approach that's being taken to make sure this works. I think that's what Mr Murdoch wants, to make sure that it works and that he achieves his dream of marriage commissioners.

1620

Mr Levac: My learned colleague to my left has much more experience in terms of the law and what happens when bills are passed and laws come into play and how he deals with them, and further to that, not to mention the support I received in the first two motions that I proposed and the support that he strenuously made me want to comment on. He does bring to this particular section a little bit of concern that needs to be raised. In my experience in the House to date, most bills come into force when they receive royal assent. A lot of the bills I'm familiar with didn't always have the regulations in place during that particular time.

I think if the concern Mr Kormos is raising is one of maybe assurances, or discussions held, that what Mr Tascona was saying was if it's basically to give us some time to make sure that things are in place to create those commissioners, then I don't have very much concern or worry. What does worry me is it's such an open-ended process by going to the Lieutenant Governor when you declare a bill. I think that's what the concern might be. So it's more in favour of making sure the bill gets to the printer as soon as possible. I make that comment just as an observation more than a criticism. I will support that if Mr Murdoch feels comfortable, that the government of the day would probably try to get those commissioners in place as soon as possible.

Mr Kormos: I caution my colleague from the Liberal Party. Here's Mr Tascona today as a parliamentary assistant. I take him at his word. But all we need is one more off-the-cuff comment from a junior cabinet minister about restoring MPPs' pensions, and Mr Tascona is no longer parliamentary assistant; he's in there with a car, driver and keys to the cabinet ministers' washroom. He may not be here in a week or two weeks. So I appreciate what you're saying, and I'm prepared to take Mr Tascona at his word.

I don't know what the Vice-Chair of the committee has to say about that, because the Vice-Chair of the committee obviously is a person of status and prestige with a position of power and control. There's certainly considerable remuneration that goes with the job. So Mr McDonald, notwithstanding that he's been here but weeks, is already a Vice-Chair. There's an ascendancy that, again, an off-the-cuff comment by a cabinet minister, never mind about pensions but about the inadequacy of salaries, and before you know it, Mr McDonald is no longer the Vice-Chair; he's the minister of whatever he wants to be.

Hon John R. Baird (Associate Minister of Francophone Affairs): It also works the other way too.

Mr Kormos: Let us be cautious. It was only today that the government House leader was complaining, or perhaps it was his whip, about how there are so many parliamentary assistants that some of them are doubling up as Chairs. Is that what I heard earlier today? So that means there are only four people in the government caucus who don't have perks, who don't receive salaries above and beyond their base salaries. There are only four people out of that majority government caucus. So don't tell me that the competition isn't hot and heavy and stiff. You're talking about some people who wake up in the morning hoping to find something incredibly damaging on the front page of the morning paper about one of their colleagues, because they're insisting, "That dough-head"—as they would put it privately—"has no business

being in cabinet, and they left"—the proverbial—"me out? Clearly, I'm much more clever than that person who was appointed to cabinet. I'm much more capable. I'm more reliable. How was I to know that Jim Flaherty was not going to win? How would I know that Jim Flaherty is not going to win the leadership?" So let's be very cautious. I exhort my Liberal colleague to vote against this legislative-orbit amendment.

Mr Murdoch: I'll let Mr Guzzo go ahead, and I'll wrap it up.

Mr Guzzo: I just want to say to the Liberal member that you make a very valid point. If you want to think about it, think of it in terms of the Peterson government being voted out of office with bills waiting to be proclaimed, as well as the Clark administration at the federal level doing the same thing and the bills that were left hanging. When you watch what happened there, it drives home the point very validly. But we will still vote for it.

Mr Murdoch: I'm concerned, but I can guarantee to Peter I'll be here, so I'll be able to keep it going. Maybe these other guys will be moving up—

Mr Kormos: Hubris, Mr Murdoch.

Mr Murdoch: I don't think so. I've been here for 12 years so I'll probably still be here and I'll make sure that it gets through. I'll keep the pressure on. I also want to thank the Liberals for putting some motions through because yours were good motions. There's no problem. I just thought that—

Mr Kormos: Why didn't you support them?

Mr Murdoch: I'll tell you. Mr Kormos says, why didn't we support them? Because I thought we had some made up in the government level that we have to work with the bureaucrats. They come up with these that we could work with. As you remember, when they first came here they weren't going to help us at all. They've obviously thought about this and said, "Well, maybe there is some good merit in this so let's work with them." So that's why. As I say, I appreciate the fact that you were thinking about improving my bill, and their amendments did improve the bill.

What we had to clean up, the two we voted on—or the one we're going to vote on next will clear it up. I have concerns about the open-endedness, just like you said, but we'll get these pushed through. I think we can do that. Peter, I'll be here to do it. I know with your help and with help from both the Liberals and the NDP on Thursday, we will be able to give this bill third reading with all-party consent. I'm quite confident that I'll receive it from both of the other sides and we'll have it done on Thursday. That will allow us to get going.

Mr Kormos: Mr Murdoch, do you want to work with the bureaucrats just like they worked with you on the first day of these hearings?

Mr Murdoch: But they've come around.

Mr Kormos: You have very short-term memory failures there.

The other thing is, let's understand that this bill has been altered substantially by the parliamentary assistant. Every section of this bill has been repealed by the parliamentary assistant. This is not the same bill it was when it started. You can help keep some remnant there by voting against this amendment. Vote on the side of the regime and a new epoch of marriage commissioners. Make this bill happen. Vote against this amendment, Mr Murdoch.

Mr Tascona: The bill's still named after Mr Murdoch.

The Chair: Are you introducing a motion? Is there a new motion?

Mr Tascona: It's still Bill 74.

Mr Kormos: Let's face it: once the bill gets third reading it ain't named after nobody. It's just Bill 74.

Mr Tascona: Actually, the intent and purpose of what the member is trying to accomplish here is happening, and I think we should proceed.

The Chair: Any further discussion by members?

Mr Kormos: Recorded vote, please.

The Chair: Are members ready to vote? We're voting on the government motion on page 5.

Ayes

Guzzo, Levac, McDonald, Murdoch, Tascona.

Nays

Kormos.

The Chair: I declare the motion passed.

Shall section 2, as amended, carry? Carried.

Shall section 3, the short title, carry? Carried.

Shall the long title of the bill carry? Carried.

Shall Bill 74, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Agreed.

The committee adjourned at 1628.

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Also taking part / Autres participants et participantes
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Clerk / Greffier
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Standing committee on justice and social policy

Victim Empowerment Act, 2002

Comité permanent de la justice et des affaires sociales

Loi de 2002 sur l'habilitation des victimes

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON JUSTICE AND SOCIAL POLICY

COMITÉ PERMANENT DE LA JUSTICE ET DES AFFAIRES SOCIALES

Tuesday 8 October 2002

Mardi 8 octobre 2002

The committee met at 1532 in room 151.

SUBCOMMITTEE REPORT

The Vice-Chair (Mr AL McDonald): We'll call this meeting to order at 3:32. We're here today for clause-by-clause consideration of Bill 60, An Act to give victims a greater role at parole hearings, to hold offenders accountable for their actions, to provide for inmate grooming standards, and to make other amendments to the Ministry of Correctional Services Act.

Report of the subcommittee on committee business: do we have a motion, please?

Mr Dave Levac (Brant): So moved.

Mr Peter Kormos (Niagara Centre): On a point of order: With respect to the subcommittee report, we're dealing with Bill 60 here and now, so the extent to which the subcommittee report deals with the committee dealing with Bill 60, we don't have to pass it or consider it, because here we are. You know what I mean? Like, let's do it. Here we are.

Mr Bob Wood (London West): Why don't we seek unanimous consent?

Mr Kormos: Yes, let's rock and roll. Let's move on. Unanimous consent, subcommittee report be deemed passed.

Mr Wood: I'd grant it.

Mr Kormos: There.

The Vice-Chair: Mr Kormos, I believe it should be read into the record. This deals with Bill 60 and Bill 30.

Mr Kormos: On a point of order: Anything could be done on unanimous consent. So I'm seeking unanimous consent that the subcommittee report, as filed, be deemed read.

The Vice-Chair: Is there unanimous consent?

Mr Wood: I think we should put it on the record, because otherwise—

The Vice-Chair: Say no, then.

Mr Wood: People do actually read these on the Internet. I understand and I support Mr Kormos's interest in efficiency, which I totally endorse. But I'm wondering whether it should be in the record so people—

Mr Kormos: On a point of order: Seeking unanimous consent that Hansard record the report by the subcommittee as part of the record.

Mr Wood: I would certainly support that. If they refuse to do it, you can explain it, but I'm satisfied with that.

The Vice-Chair: Mr Kormos, I'll have to rule the point of order out of order because Hansard can only report on things read into the record.

Mr Kormos: I think we should refer this to Sheehan and the Red Tape Commission.

Mr Wood: We may have to appeal this ruling; however, it would only upset Mr Kormos if we did that. So I will read it in.

Mr Kormos: I was just trying to help.

Mr Wood: I know you were, and I tried too.

The Vice-Chair: Thank you very much.

Mr Kormos: Any time, Chair.

Mr Wood: Your subcommittee on committee business met on Thursday—

The Vice-Chair: Whoa.

Mr Wood: Sorry.

The Vice-Chair: We need a motion to—

Mr Wood: A motion to do what?

Mr Levac: I was asked to read it.

Mr Wood: Feel free. Carry on.

Mr Levac: I like to get on the record.

Your subcommittee on committee business met on Thursday, October 3, 2002, and recommends the following with respect to Bill 60, An Act to give victims a greater role at parole hearings, to hold offenders accountable for their actions, to provide for inmate grooming standards, and to make other amendments to the Ministry of Correctional Services Act, 2002 and Bill 30, An Act—

Mr Kormos: On a point of order, Chair: Mr Levac has to speak more slowly if Hansard is going to be able to record what he's saying.

Mr Levac: Shall I continue?

The Vice-Chair: Please do.

Mr Levac: —An Act to amend the Fire Protection and Prevention Act, 1997 in order to protect the employment of volunteer firefighters, 2001.

(1) That the committee shall invite the Minister of Correctional Services and staff to appear before the committee on Tuesday, October 8, 2002, to make a presentation and to answer questions regarding Bill 60.

(2) That the committee shall proceed with clause-by-clause consideration of Bill 60 following the minister's presentation on Tuesday, October 8, 2002.

(3) That if the committee requires additional days for clause-by-clause consideration of Bill 60, these shall be added after the committee has considered Bill 30.

(4) That the committee shall meet in Toronto for the purpose of public hearings for Bill 30 on Tuesday, October 15, 2002, and on Monday, October 21, 2002, from 4:00 pm to 6:00 pm.

(5) That the committee shall invite the Minister of Public Safety and Security to appear before the committee on Tuesday, October 15, 2002.

(6) That the committee shall post information regarding the hearings on the Ontario parliamentary channel and on the Internet.

(7) That interested people who wish to be considered to make an oral presentation on Bill 30 should contact the committee clerk by 5:00 pm on Wednesday, October 9, 2002.

(8) That the committee clerk shall send out a list of all requests by 6:00 pm, Wednesday, October 9, 2002.

(9) That each party shall submit to the committee clerk a prioritized list of witnesses with alternates in case of duplication by 12:00 noon, Thursday, October 10, 2002.

(10) That the number of witnesses shall be divided equally among the three parties.

(11) That groups shall be offered 15 minutes in which to make a presentation, and individuals shall be offered 10 minutes in which to make a presentation.

(12) That the clerk shall be authorized, in consultation with the Chair and the subcommittee as necessary, to schedule witnesses from the lists of names submitted by the three parties.

(13) That the deadline for written submissions shall be 5:00 pm Tuesday, October 21, 2002.

(14) That the committee shall meet for clause-by-clause consideration of Bill 30 on Tuesday, October 22, 2002.

(15) That the committee clerk can begin implementing these decisions.

So moved.

The Vice-Chair: Any discussion?

Mr Kormos: Recorded vote, please.

Mr Wood: It's already passed, Peter, on your motion. It had to be unanimous.

Ayes

Beaubien, Guzzo, Kormos, Levac, Wood.

The Vice-Chair: Carried.

VICTIM EMPOWERMENT ACT, 2002

LOI DE 2002 SUR L'HABILITATION DES VICTIMES

Consideration of Bill 60, An Act to give victims a greater role at parole hearings, to hold offenders accountable for their actions, to provide for inmate grooming standards, and to make other amendments to the Ministry of Correctional Services Act / Projet de loi 171, Loi visant à accroître le rôle des victimes aux audiences de libération conditionnelle et à responsabiliser les délinquants à l'égard de leurs actes, prévoyant des normes relatives à la toilette des détenus et apportant d'autres modifications à la Loi sur le ministère des Services correctionnels.

The Vice-Chair: We'll move on to a statement by Mr Bob Wood, MPP, parliamentary assistant to the Honourable Robert Runciman, MPP, Minister of Public Safety and Security.

Mr Wood: This bill proposes to do two things: (1) to open up to a considerable extent parole hearings and (2) to address certain health and safety issues in the institutions. A full statement was made when this was first introduced in the Legislature and I'm not going to go through all that again because I share Mr Kormos's interest in expediting this matter and getting to the meat of the clause-by-clause. So I would propose that we proceed immediately to clause-by-clause. That's my statement, in essence.

Mr Kormos: I appreciate Mr Wood's statement and I appreciate his wishes, but here he is submitting himself to what will inevitably be rigorous and painful grilling by the two modest opposition members present. That was part of the deal, too.

The Vice-Chair: Mr Kormos, I believe Mr Wood and Mr Runciman's assistants are here to answer any questions you might have.

Mr Wood: We're ready to proceed now, if you like.

Mr Levac: Given the statement, there are some issues that need to be raised with respect to Bill 60, as much as indications have been made that support for the bill seems to ultimately be inevitable. I'm wondering if Mr Wood or any of the staff can explain for me, cite any scientific research, or any kind of research whatsoever, that implies and makes it quite clear that giving someone a haircut will make them a better inmate.

Mr Wood: I think the bill is based on experience in the institutions. Those provisions are intended to address health and safety issues, and the experience is that in certain circumstances this can be a problem. That's what we've heard from some of the people who actually have the responsibility of administering the institutions.

Mr Levac: What problem would that be?

Mr Wood: If you have hair that's excessively long, that can get into certain questions of concealment and so on, if that's what the individual chooses to do. What these provisions are intended to do is facilitate health and safety in the institution. If we have things that are concealed, be they weapons, be they contraband, that interferes with the operation of the institution and makes the job of the corrections officers that much more difficult.

Mr Levac: I appreciate that, but—

Mr Wood: If I may add to that, this is not an attempt to tell people how to groom themselves for the purpose of aesthetics. This is to deal with health and safety within the institution.

1540

Mr Levac: As I said, I appreciate that logical explanation. At one time, if anyone cares to go back into the records, it was indicated that it would be for the purpose that you said it was not going to be. I'm glad to see that there is rather an understanding of such. The indication is, though, that it's as a result of discussion with correctional officers, as opposed to any research that has indicated that cutting people's hair makes a difference in terms of the performance of the inmate.

Mr Wood: No—

Mr Levac: Those were some of the things, Mr Wood, that were explained to us in justifying having those particular guidelines and regulations implemented. I further discussed it with some of our correctional officers. There were logical reasons, and I'm glad the ministry is now taking the position that those are the issues we're starting to base some of those things on in terms of health and safety. For example, the length of someone's fingernails indicates their possible use as a weapon and the fact that they could also use them to ingest drugs, etc. So the types of things you're talking about now, which I'm assuming is the rationale for this particular piece of legislation, are much more palatable and much more defendable than simply giving somebody a haircut to show them how they're going to behave and assuming that any kind of behaviour is going to improve with a haircut. I'm very pleased to hear that particular piece of logic has been dropped.

Mr Wood: I would hope you would find additional comfort in the wording of the bill itself, this being clause (l.1)(s), "prescribing grooming and appearance standards" etc "that are relevant to the security of those institutions or to the health or safety of persons, and requiring compliance with those standards." So the bill itself, I think, should give you further assurance in addition to the one that I hope was of assistance to you.

Mr Levac: And I will continue because when I was told of the bill's contents and I did finally see the contents of the bill, I rather enjoyed to see the fact that that was being looked at. The other issue this then asks is, will there be regulations or guidelines for how that is going to be applied to the inmates, as in how short will their hair be, how long their hair will be?

Mr Wood: Certainly, there will be standards prescribed. Exactly what those are going to be I think requires further work and further consultation.

Mr Levac: Great.

Mr Wood: So the short answer is, yes, there will be standards. I can't tell you what they are today because we want to work on them further.

Mr Levac: I appreciate it. That's it for me right now, Mr Chairman.

Mr Kormos: I want to make the observation that this government is more interested in grooming as it applies to prisoners than it is in the grooming and bathing of our senior citizens, be they in long-term-care centres or other places. The government abandoned the minimum standard of one bath per week for senior citizens, but is expressing far more interest and concern about the bathing and grooming of prisoners. It seems to me something of a contradiction here, but I guess we have to live with it. It's a majority government.

Mr Wood: I think the purpose of these standards is somewhat different than those in other non-custodial institutions, but that's a discussion for later, no doubt.

Mr Garry J. Guzzo (Ottawa West-Nepean): I have a question for the parliamentary assistant. I saw the correspondence from the minister's office after he was invited to be here and the regrets that he was not going to be here personally. I want to say to you, sir, that I am most appreciative of the fact that you are here. As a matter of fact, I would prefer to have you here than the minister.

Mr Kormos: That's a career-enhancing move.

Mr Marcel Beaubien (Lambton-Kent-Middlesex): It is. That's an endorsement.

Mr Guzzo: Just to clarify the record: you, sir, are a member of the bar, correct?

Mr Wood: That's correct.

Mr Guzzo: When were you called to the bar?

Mr Wood: March 24, 1972, the same day as the Premier.

Mr Guzzo: It must have been a bumper crop that year.

Mr Wood: They have got a lot of that.

Mr Guzzo: Yes, I agree. In any event—

Interjections.

Mr Guzzo: I just want to clarify a couple of quick points here if I could, sir. With regard to the parole hearing, I would ask you if, in your personal opinion as a practising member of the bar, would you describe the parole hearing as a quasi-judicial hearing?

Mr Wood: I think the hearing is what the statute says it is and what the courts define it as. I would not want to offer personal opinions. I think the opinion that counts is what the statute says and what the decisions of the courts have said.

Mr Guzzo: By that, I take it that the government position is that it is a quasi-judicial function that the parole board carries out.

Mr Wood: I think the government position is that it is what the statute says it is and what the cases decided by the Superior Court of Justice and other courts have said.

Mr Guzzo: Accepting that, now we're allowing the victim to attend and give evidence at the hearing as opposed to having to submit the evidence in writing, as was required before. Correct?

Mr Wood: Correct.

Mr Guzzo: And the victim will be allowed to be in attendance at the hearing in the presence—

Mr Kormos: On a point of order, Chair: I'm no judge, but those sound like the leading-est of leading questions.

Mr Guzzo: We're not adverse in interest here, Mr Wood and myself, so I'm allowed to lead him.

Mr Wood: That's true too, as a matter of fact.

Mr Ernie Hardeman (Oxford): I'm not even a lawyer and I don't know what we're doing.

Mr Kormos: I presume you're not cross-examining.

Mr Wood: It's not worth asking. Take our word for it.

Mr Guzzo: I don't think I'm cross-examining him, no.

Mr Kormos: Then stop leading him.

Mr Guzzo: I just want to put certain things on the record as we did with—

Mr Kormos: He's your witness.

The Vice-Chair: Go ahead, Mr Guzzo.

Mr Guzzo: Thank you, sir. It seems to me that the number one complaint that I have heard with regard to the inability of the victim to appear at the same time before the parole board came with the transfer of information from the board to the victim by way of the chair or one of the members of the board, then relaying that evidence, sometimes over lunch, and giving the appearance that the decision-making provisions were not being carried out in a quasi-judicial function. I would suggest to you that by having them there, this practice of the board member taking the victim to lunch and explaining the decision, sometimes before it's given, would then cease with these changes. Am I safe in assuming that, Mr Wood?

Mr Wood: I don't think I would undertake to tell the board how to conduct their hearings at this point, but I think there are certain legal requirements which basically boil down to reasonable apprehension of bias and due process that the board has to follow. I would invite you and the board to look at the legal requirements. I would think they would be complied with.

Mr Guzzo: What I'm asking you then, as a lawyer, is to tell me whether you think it is appropriate for the chair of the board, upon hearing the evidence and before giving a ruling, to then have lunch with the victim at the expense of the chair?

Mr Wood: I think anything that any board does that doesn't comply with the requirements of judicial review, which I have summarized and don't want to try and give an exhaustive explanation of, is inappropriate for any administrative board.

Mr Guzzo: That's very helpful, and I think you for the answer. Anything further I will now do in writing. I will undertake to provide the members of the committee with the copies of the correspondence. Thank you very much.

The Vice-Chair: Any further questions or comments?

Mr Levac: Regarding the section on page 2, section 2 (t), "providing for the monitoring, intercepting or blocking of communications of any kind between an inmate of a correctional institution and another inmate or other person, where reasonable for protecting the security of the institution or the safety of persons": has that been vetted in terms of a comparison with what the federal government presently does with its monitoring system? Has it already been vetted with lawyers for opinions as to whether or not listening to phone calls is constitutional?

1550

Mr Wood: Number two, yes. Number one, I'm going to have to seek the ministry's advice. I don't know the answer to number one. Number two, the answer is yes. Do we have anyone who can assist us with respect to the first half of that question?

Mr Jay Lipman: My name is Jay Lipman. I'm a lawyer with the Ministry of Public Safety and Security.

Mr Wood: You have to shout, because some of us are a little hard of hearing.

Mr Lipman: Sorry. In terms of vetting it, the expectation now is that the regulations will be similar to what currently exists in the Correctional Services of Canada school.

Mr Levac: Just as an additional point, or my curiosity again: since you've already done that, is it advisable to make somewhat similar regulations and rules so that you can't have any differences between what the federal government is doing in its institutions and the Ontario institutions, in terms of language and how things are done, so that inmates cannot communicate in any way, shape or form about what the loopholes are in each one of the systems? As we know, as a culture, some inmates absolutely know each other and know how to communicate back and forth. Does that make sense?

Mr Lipman: That does make sense. Certainly the federal model that's in place now will form the basis of our model. There have been a number of court challenges to the federal provisions, and of course we'll take those into account in designing our program.

Mr Levac: You've answered my question completely.

Mr Wood: I was going to add something, but if it's already complete—maybe I will add this: we like consistency where possible with the federal system, but where we think they're not doing something in the best possible way, we may well do it a little differently.

Mr Levac: Yes. I think they've done the same thing.

Mr Wood: Yes. We do have a certain number of repeat guests in the two systems, and to have the same regime is helpful where possible.

Mr Kormos: I'm looking at section 1 of this act, subsection 2 in particular, and the amendment which will be (1.1): "prescribing standards of professional ethics for persons employed in the administration of this act and requiring compliance with those standards." Of course, that's an amendment to the Ministry of Correctional Services Act, which then suggests—and I would ask Mr Wood—that there are no existing standards of professional ethics for people administering that act, which would include persons conducting parole hearings. Is that correct on my part?

Mr Wood: No, I don't think that is correct. I think that there are none prescribed under this act. Certainly the people who are administering the parole system are held to the standards of the ministry. I think it would not be correct to say that they are not held to quite high standards. There are standards now. This gives statutory authority for the prescription of standards, which I think is important. But it is not correct to say there are no standards now.

Mr Kormos: Because Mr Guzzo was putting a scenario before you—whether it was hypothetical or not, I'm

not sure—but surely in the course of your response you displayed some familiarity, if not thorough familiarity, with the concept of reasonable apprehension of bias and the role of a neutral and the obligation of that neutral who is adjudicating to not only be neutral but to display that neutrality in every possible way. You indicated a pretty good understanding of that.

So your response was or was not that having lunch with a victim prior to tendering one's decision is or is not in compliance with the standards expected of a neutral?

Mr Wood: My response is that I think any adjudicative tribunal where the decision-maker engages in behaviour that gives rise to a reasonable apprehension of bias on the part of that person or persons whose case is being adjudicated—if they do that, they are open to the decision being set aside. I don't want to get into commenting on individual cases, because I think that's—

Mr Kormos: Well, no, I'm just asking you hypothetically.

Mr Wood: I'm evading your question by giving you an answer which sets out what I think is the state of the law. I think that's a legal requirement, and indeed in some cases it's actually a constitutional requirement.

Mr Kormos: Are the standards of professional ethics to be prescribed going to be retroactive? That is to say, are they going to apply to persons and be applied to previous conduct as well as future conduct?

Mr Wood: I think they're more likely to be applied to future conduct.

Mr Kormos: Is that sort of like the business we talked about yesterday, that any actions against the crown, for instance, arising before 1964 can't be pursued: Proceedings Against the Crown Act, sections 28 and 29?

Mr Wood: There's a certain symmetry between the two, although we would have certain other problems if we made it retroactive, such as collective agreements, employment contracts and so on.

Mr Kormos: Would the standards of professional ethics that are prescribed deal with the inappropriateness of a parole officer and their behaviour in having lunch with a victim?

Mr Wood: I would strongly suspect the standards are going to include compliance with the law and with the constitution, which I think would lead to a positive answer in such circumstances.

Mr Kormos: What is Mr Runciman doing this afternoon?

Mr Wood: He did not share that with me, so I can't tell you.

Mr Kormos: Because, interestingly, I never saw him leave the members' lounge when the press was anxiously waiting outside the east lobby.

Mr Wood: I'm afraid I'm as much in the dark as you are on the matter. I cannot be of assistance.

Mr Kormos: Are you interested in commenting on the tax break for professional sports teams that appears to have been done by way of ministerial order?

Mr Wood: I might, after I have an opportunity to fully study it.

Mr Kormos: You should be with Ernie, then, instead of here. Do you think Mr Eves is at all upset today with anybody?

Mr Wood: Not that he expressed to me.

Mr Kormos: Would you want to be his briefing person?

Mr Wood: I haven't been asked.

The Vice-Chair: Maybe we could move back to Bill 60. Mr Levac.

Mr Levac: I intend to do so. On the second page, subsection (3):

"Discipline

"(5) The fact that an inmate or young person is alleged to have committed an act or omission that is an offence under an act of Canada or Ontario does not prevent disciplinary procedures from being taken against him or her in respect of the act or omission in accordance with the regulations made under clause (1)(e)."

In my reading of that, am I assuming then that the ministry is just simply outlining that they, under regulation, can issue statements of how an inmate will be disciplined, given any kind of action taken inside an institution?

Mr Wood: No. There's an argument that if a criminal charge is pending, you cannot proceed with disciplinary action. This clarifies that if there is, say, a criminal charge pending, you can also proceed with a disciplinary action. That's why that's there.

Mr Levac: For further clarification, the implication at one time was that inmates were not being punished, even if there wasn't any criminal act being pursued, as an internal discipline mechanism. There was argument that they couldn't proceed to do that because they were already being punished.

Mr Wood: I think it's clear that you can discipline an inmate.

Mr Levac: Absolutely.

Mr Wood: Let us say that an incident occurs—an assault, for example. That gives rise to a criminal charge. What this section says is, despite the fact that there's a pending criminal charge, you can still proceed with institutional discipline.

Mr Levac: And that's been vetted also in terms of their rights?

Mr Wood: Yes. It's always dangerous to give comment on constitutional issues, but I think we can have reasonable confidence that that is constitutional.

Mr Levac: Yes, and I'm not making attempts to try to catch anyone saying anything; I'm just asking the question in terms of if it's been vetted. I'm assuming that because of that, we're proceeding.

Mr Wood: Yes, it has been vetted. We hope the opinion is correct and believe it to be correct.

Mr Levac: Thanks, Bob.

Mr Kormos: Chair, can one of the government members please move section 1? My attention span has been exhausted. I'm getting incredibly bored.

The Vice-Chair: Any further questions or comments?

Mr Wood: We don't get to move it. He has to move it. I agree—

Mr Kormos: He's got to move it.

Mr Wood: I've supported you on all issues so far.

Mr Kormos: You can move it if you want—

Mr Wood: No, no, he has to.

Mr Kormos: If you wait for him, it may take all day. He hasn't moved anything yet.

Mr Beaubien: We've got all day.

Interjection: Where are you going? You've got to hang around to vote.

Mr Kormos: Of course, but I just want to try to get up there for that scrum.

Mr Beaubien: You can go around. We'll take a break. We'll recess for a few minutes if you want to take the scrum.

1600

The Vice-Chair: I'm happy to sit here all day. I enjoy this type of work, so if you want to banter back and forth—

Mr Wood: Mr Kormos is insisting—

Mr Kormos: You speak well of yourself in that regard, then.

Mr Wood: He's insisting.

The Vice-Chair: OK, we'll go back to section 1.

Mr Kormos: Carried.

The Vice-Chair: Shall section 1 carry?

Mr Kormos: Carried.

Mr Wood: Carried.

The Vice-Chair: Section 2.

Mr Wood: I do have an amendment.

Mr Kormos: Go ahead, quickly, please.

Mr Wood: I move that section 2 of the bill be amended by adding the following subsection:

"(1.1) Subsection 60(1) of the act, as amended by the Statutes of Ontario, 1997, chapter 17, section 7, 1997, chapter 39, section 10 and 2000, chapter 40, section 18, is further amended by adding the following clause:

"(j.2) authorizing persons, other than victims within the meaning of the Victims' Bill of Rights, 1995"—I presume that's an act; maybe not—"and other victims of offences, to attend proceedings of the Ontario Parole and Earned Release Board as observers, and governing their attendance;"

The Vice-Chair: Questions or comments?

Mr Kormos: Of course, Mr Wood, you know the Victims' Bill of Rights, 1995, is a statute and it's one that was thoroughly trashed by the courts when Ms Even and Ms Vanscoy sought remedy under the Victims' Bill of Rights. Judge Day, in that hearing, effectively said that the bill did not confer any rights on victims; indeed, the government instructed its own lawyers to argue that the bill didn't confer any rights on the victims. So if that helps you recall that particular piece of legislation, then it's been useful.

Unfortunately, the Victims' Bill of Rights has been of no use whatsoever to victims since its inception, nor has this government done a single thing to correct the serious absence of victims' rights by virtue of readdressing the bill.

I want to indicate that I'm supporting this amendment. The minister's office was very helpful in letting us know that it was going to be brought forward. One of my concerns was the very limited nature of the section in the bill which authorizes the participation of victims. It's with regret that the bill doesn't state more thoroughly what the rights of the victims will be in terms of participation. I can only exhort the government to ensure that participating means for the victim more than just attending. It means giving that victim, should she or he wish it, status or standing at the hearing; it means ensuring that that person has counsel; and it means ensuring that that person has meaningful access to the hearing, to wit, advance notice of parole eligibility, advance notice of a parole hearing actually being heard. It means ensuring that that person has access to the hearing in terms of transportation and whatever other expenses that may be incurred being paid for, should the victim wish. It means that that victim has the support necessary from professional people, not just lawyers but other professionals, because for many victims this could be a very traumatic, terrifying experience. I'm hoping that the government, when it makes those regulations, considers all those things, because it has the power to do it, obviously, by regulation.

The amendment—I'm pleased, because one of the other vacuums or areas that the bill ignored was the access of the press to parole hearings. I believe that press coverage of parole hearings and conducting parole hearings so that the press can meaningfully digest and understand the evidence that a parole hearing officer is relying upon is critical to restoring public regard for parole hearings. Quite frankly, I consider it in the interests of the offender who is seeking to have his or her sentence shortened as well, because it means that there could be the prospect of public scrutiny and criticism of an unfair decision which was unfair by virtue of not releasing a prisoner on parole. That openness could go a long way to acting as a deterrent for sloppy or shoddy decisions. I means that the parole hearing officials would be under much more scrutiny in terms of making sure that they heard all of the possible evidence and reviewed it in a reasonable way. I think it's a safeguard for the victims, it's a safeguard for the community as well as a safeguard for the offender.

You know my view, and that is that if the sentencing process is a public one, as it is in courts as of right, any interference with that sentence—and all a parole hearing is is an effort to reduce the sentence that was originally imposed, or to vary the way it's served, rather, in the most precise terms—

Mr Wood: To determine how it's served.

Mr Kormos: But any alteration of that sentence, which is what the parole board does, should be equally public. I don't think that's an offence to anybody's interests. As a matter of fact, it's in the interests of the administration of justice and maintaining the regard for the administration of justice.

I wish the amendment were more complete in terms of spelling out the conditions under which other persons—persons other than victims—can attend, but that isn't the case. But in view of the modest progress shown by the government to the arguments that we made regarding this bill, I want to urge others, including the government members, to support this amendment.

Mr Wood: May I respond very briefly to that? I think that what Mr Kormos has done is touch on a number of important issues for which we appreciate his advice. We invite him to offer any further advice that may occur to him as he considers this further, and invite everybody to offer comment, because the regulations that are actually prescribed are quite important here and we are inviting input from everyone who has something that they think would be helpful. So we appreciate what you did say and would invite more if more comes this way.

Mr Kormos: I can tell you, Mr Wood, Cam Jackson never took me out to dinner. Maybe Mr Runciman will.

Mr Wood: Well, who knows?

The Vice-Chair: Any further questions or comments? The government has moved an amendment to subsection (2)(l.1). Shall the amendment carry? Carried.

Section 3—

Mr Kormos: Shall section 2, as amended, carry? Carried.

The Vice-Chair: Shall section 2, as amended, carry?

Mr Kormos: I just said that.

Mr Beaubien: I think the Chair is quite able to do it. Give him a chance.

Mr Kormos: If he would have, I wouldn't have had to say it.

The Vice-Chair: Section 3.

Mr Kormos: Amendment, Bob?

Mr Wood: I move that subsection 3(2) of the bill be struck out and the following substituted:

"Same

"(2) Section 1 and subsections 2(1) and (1.1) come into force on a day to be named by proclamation of the Lieutenant Governor."

That flows, of course, from the previous amendment.

The Vice-Chair: Questions or comments? Seeing none, the government moved an amendment. Shall it carry? Carried.

Shall section 3, as amended, carry? Carried.

Shall section 4, the short title, carry? Carried.

Shall the long title of the bill carry? Carried.

Shall Bill 60, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

The committee is adjourned.

The committee adjourned at 1608.

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Also taking part / Autres participants et participantes
Mr Jay Lipman, Ministry of Public Safety and Security

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Staff / Personnel
Ms Susan Klein, legislative counsel

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of Ontario

Third Session, 37th Parliament

Official Report of Debates (Hansard)

Tuesday 15 October 2002

Standing committee on justice and social policy

Volunteer Firefighters
Employment Protection Act, 2002

Chair: Toby Barrett
Clerk: Susan Sourial

Assemblée législative
de l'Ontario

Troisième session, 37e législature

Journal des débats (Hansard)

Mardi 15 octobre 2002

Comité permanent de la justice et des affaires sociales

Loi de 2002 sur la protection
de l'emploi des pompiers
volontaires

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON JUSTICE AND SOCIAL POLICY

COMITÉ PERMANENT DE LA JUSTICE ET DES AFFAIRES SOCIALES

Tuesday 15 October 2002

Mardi 15 octobre 2002

The committee met at 1600 in room 151.

VOLUNTEER FIREFIGHTERS EMPLOYMENT PROTECTION ACT, 2002

LOI DE 2002 SUR LA PROTECTION DE L'EMPLOI DES POMPIERS VOLONTAIRES

Consideration of Bill 30, An Act to amend the Fire Protection and Prevention Act, 1997 in order to protect the employment of volunteer firefighters / Projet de loi 30, Loi modifiant la Loi de 1997 sur la prévention et la protection contre l'incendie afin de protéger l'emploi des pompiers volontaires.

The Chair (Mr Toby Barrett): I would like to commence. Good afternoon, everyone. Welcome to this regular meeting of the standing committee on justice and social policy. Our purpose this afternoon is to receive deputations with respect to Bill 30, An Act to amend the Fire Protection and Prevention Act, 1997 in order to protect the employment of volunteer firefighters. For the purposes of Hansard, we're meeting this day, Tuesday, October 15. We have a number of delegations and we have available 15 minutes for each delegation.

TOWN OF CALEDON

The Chair: I wish to call forward the first delegation. That would be the town of Caledon. Good afternoon. Have a chair and we'll ask you to give us your names. You may want to allow members time to ask questions and make comments.

Ms Carol Seglins: Mr Chair and members of the committee, I'm Carol Seglins, the mayor of the town of Caledon. I am joined today by our fire chief, Mr Boyd Finger. I believe you all have copies of the material, so I'll go through it quickly.

I would like to thank the committee for allowing us to provide comment on Bill 30, the Volunteer Firefighters Employment Protection Act. I'd also like to formally acknowledge the work of Mr Ted Arnott, MPP, Waterloo-Wellington, who has had the courage, and really realized the significance for municipalities such as ours, to bring forward the proposed legislation, and the Association of Municipalities of Ontario for their support for the bill.

I would like to begin by giving the committee information about the community that I serve. The town of Caledon is the largest community in the region of Peel, with a land mass that exceeds that of the city of Toronto. We currently have a population of approximately 50,000 persons scattered throughout the town. Bolton is our largest centre, with roughly 40% of the population. In all, there are 13 villages and hamlets and a substantial rural area.

The Region of Peel Act stipulates that fire and emergency services are an area municipal matter, and our council takes that responsibility very seriously. We have a very qualified chief who manages a number of full- and part-time staff. We currently have a full-time fire prevention officer, a public education officer, two support staff and 215 volunteer firefighters.

Each station is staffed by volunteers with a district chief, an assistant district chief, three captains, a training officer, an assistant training officer and a fire prevention officer. We currently have one Ontario Fire College master facilitator trainer and 16 facilitator trainers.

Our very large geographic area poses some interesting challenges. In order to ensure a proper level of service and reasonable response times, we have a total of nine stations for a population of 50,000 residents. Our inventory of equipment is also significant, with 10 triple combination pumpers, seven pumper/rescue vehicles, one pumper aerial truck, one rescue squad unit, six water tankers, three pumper/tankers, one command/lighting unit and two mechanical units. Of all these pieces of equipment just mentioned, 10 are class A foam-equipped units.

Our very large and diverse geography has created another challenge, that being finding the best way of providing the human resources to deal with the delivery of the fire and emergency service. Our chief has developed a level of staff resources appropriate to deliver fire suppression, public education and fire prevention services. Our complement varies, but at this time we have over 200 firefighters, the majority of whom are volunteers. These public-spirited members of the community have other employment and choose to receive training and, when they become qualified, offer their service to our community. These volunteers are joined by a number of fully trained and qualified firefighters who work in other communities but reside in Caledon. These individuals have full-time municipal employment elsewhere and

choose to volunteer in their hometown to respond to community service needs. These so-called double-hatters are the subject of this proposed legislation.

I think it is safe to say that when our council learned that an association of firefighters based in the United States began to assert its policies on our firefighters in Caledon, we were both shocked and mystified. After all, we assumed that it was a basic right and freedom in this country for someone to work in whatever profession they chose. In fact, many full-time municipal employees, including full-time firefighters, are free to spend their non-working hours with their families or going to school or working at a second job. This is a basic freedom that we enjoy in this country and province, not only for full-time municipal employees but for everyone.

We also learned that there was such a backlash when this first became an issue in the United States that the International Association of Fire Fighters recently clarified its stand on the issue of double-hatters. The reason I bring up the international association relates to the fact that it was this organization that first highlighted the matter of double-hatters in Ontario.

However, in a letter to lawmakers in the United States this past July, the International Association of Fire Fighters' president wrote, "Concern has been raised that our organization is engaged in action against volunteer firefighters that would be injurious to these individuals' employment status and job security with their government and/or fire department position. I can assure you that these concerns are groundless. The IAFF has never supported any actions that would jeopardize a firefighter from obtaining or maintaining a full-time position in a career fire department.... This is a matter of personal choice...."

The firefighters of our fire department who serve as full-time firefighters elsewhere deserve this same protection and freedom to make a personal choice. They have recently learned that earlier this month, the Ontario Professional Fire Fighters Association, which is affiliated with the International Association of Fire Fighters, wrote to its members advising that it will now be lifting its moratorium on secondary employment charges. They had developed a policy of not taking any action against its members for the time being and issued a moratorium on new charges. However, as of October 1, the moratorium has been lifted. A copy of their letter is attached to your material that you have before you.

It is precisely because of this type of action that taxpayers and our firefighters so desperately need the protection afforded in Mr Arnott's bill. Some of our firefighters have already been subjected to pressure and, without some form of protection, may lose their personal choice.

I am given to understand that Ontario is one of the few jurisdictions that does not have this type of legal protection for its municipal workers. Perhaps this is because we have not seen this extraordinary intervention before. At any rate, seven other provinces in Canada offer protection to employees.

In addition to the larger issue of the right to work, the eventual elimination of double-hatters would have a significant impact on the Caledon taxpayer. If we were required to replace these staff, the taxpayers would see a significant property tax increase with no appreciable improvement in the level of service. This is simply not acceptable. I gather that other areas of the province may be hit with substantial increases as well. Frankly, it is up to this committee to ensure that the rights of the employee are protected and unnecessary tax increases avoided.

The loss of our firefighters who live in Caledon and serve in neighbouring communities would have a dramatic impact on public safety. Where would we possibly find new staff with the same qualifications and training? How would we manage the immediate stress on our operations? How do you explain this loss of service and the immediate threat to public safety to our residents and businesses? Where do you find the individuals?

On behalf of our community, please do the right thing for our taxpayers and our firefighters and recommend passage of Mr Arnott's bill.

Thank you very much for permitting me to address the committee. The chief and I are happy to take questions.

The Chair: We have a little under five minutes. We'll commence with the Liberals or the NDP.

Mr Dave Levac (Brant): What time frame are we talking about? A couple of minutes each?

The Chair: We have about five minutes.

Mr Levac: For holistically?

The Chair: Yes. We'll see how the time goes. We may have time just for the Liberal side at this point.

Mr Levac: My apologies for being a little tardy for your presentation, Madam Mayor. I was delayed for a moment, but I still got the gist of your comments.

A couple of quick questions: you indicated that the elimination of double-hatters would have a tremendous effect on your taxpayers' base—an "increase with no appreciable improvement in the level of service." Is that an implication that you're going to replace them with professional firefighters, or simply the volunteers that they're asking to replace them with?

Ms Seglins: About 25% of our force would be affected. We'd have to find the individuals and have the costly training for new volunteers coming on. Losing all of that expertise, I think you could just imagine that there could be a significant loss of manpower and also a threat to public safety.

Mr Levac: When you say "a threat to public safety"—the fire marshal had implied, from my reading of his report, that there wasn't at this time a threat to public safety, unless holistically all of the double-hatters were removed. So you're saying that in your community, the removal of the double-hatters would pose a threat to your community's safety and security?

Ms Seglins: Yes. I mean, the people aren't out there trained and ready to go at this point in time. There would be a significant time lag before we could find the individuals as well as have them up and trained.

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Mr Levac: Ok, and there's an assumption, then, that without the passing of this bill the removal of the double-hatters would have to happen immediately, and there hasn't been an agreement on or discussion of how to replace those double-hatters?

Ms Seglins: We are not looking at trying to replace them. They want to participate in their community. They have a great level of expertise and training. They give support to the other volunteers who are coming on to the force. We have not chosen to do that, and we think those people have the right to work in their community on a volunteer basis if they so choose.

Mr Levac: And the training and professional development are not at a cost to your community?

Ms Seglins: We maintain training for all our firefighters.

Mr Levac: So you're saying, though, that by replacing them, you'd have to pay for them. You'd have to pay for training?

Ms Seglins: No, I'm saying there would be a cost for training new individuals coming on to the force. I understood your question to be, if 25% of our force were eliminated, how would we meet the manpower needs of the chief? We'd have to find that many more individuals from the community who wanted to volunteer as firefighters, and once we recruited them we'd have to go through a substantial training program. That's a very costly thing. Ongoing training is one matter. Getting them up to speed, and certainly to the level of expertise that some of the full-time firefighters offer to our service, would be substantial.

Mr Levac: I guess the follow-up is that that professional training is provided by the community from which they're coming.

Ms Seglins: That's provided by our municipality, yes.

Mr Levac: So the community providing that service is paying out of its own pocket for the training—

Ms Seglins: Yes, we pay for our firefighters to be trained.

Mr Levac: —and paying for all the equipment?

Ms Seglins: We buy our own equipment.

Mr Levac: So under the circumstances, not a dime is coming from the government?

Ms Seglins: We call ourselves a level of government, sir.

Mr Levac: From the provincial government?

Ms Seglins: No. This is a municipal responsibility.

The Chair: Mr Kormos?

Mr Peter Kormos (Niagara Centre): How are we doing for time?

The Chair: We've got about two minutes.

Mr Kormos: You said there are approximately 200-plus volunteer firefighters in your firefighting service.

Ms Seglins: Yes.

Mr Kormos: Approximately—and I appreciate again that it's approximate; that's fair enough—25% are—

Ms Seglins: It's about 50.

Mr Kormos: Fifty per cent?

Ms Seglins: I'm saying to you that 25% is about 50.

Mr Kormos: That's right, but 25% are double-hatters.

Ms Seglins: Yes, approximately.

Mr Kormos: Are there one or two communities these people are from where they're full-time?

Ms Seglins: We have 13 communities.

Mr Kormos: But they're double-hatters, which means they're employed by some other community as full-time firefighters.

Ms Seglins: There's no one service that they all come from.

Mr Kormos: Can you give us two or three?

Ms Seglins: I would say that all the surrounding GTA communities are hosts to several or more of these volunteers.

Mr Kormos: The new city of Toronto? Mississauga?

Ms Seglins: Brampton, Vaughan.

Interjection: Markham.

Mr Kormos: Were you aware of the efforts to negotiate a resolution of this via the fire marshal's office?

Ms Seglins: I've not seen that.

Mr Kormos: I hear what you've got to say, and I'm not in a position to dispute any of what you've got to say. Here you are, and I suspect you're telling the truth; I have no reason to believe you're not.

I'm just reading the Ontario Association of Fire Chiefs' submission that they made to this committee by way of a letter. Have you had a chance to see that submission at all?

Ms Seglins: I haven't seen it. This is the large city chiefs? Who is it?

Mr Kormos: The Ontario Association of Fire Chiefs. Chief Finger, you might be in a better position to tell us who these folks are.

Mr Boyd Finger: It doesn't mean we agree with everything they say.

Mr Kormos: Quite right. The Ontario Association of Fire Chiefs—those are larger cities or are they fire chiefs of—

Mr Finger: Any fire chief in Ontario can belong to it.

Mr Kormos: They expressed some concerns about a legislated so-called solution compared to a negotiated one. Do you share any of the concern that they express?

Mr Finger: If I lived in a perfect world, it would be nice to think we could negotiate this. But I don't live in a perfect world, and I don't see negotiations going anywhere at the present time.

Mr Kormos: If you spend some time here at Queen's Park, you'll see even less.

Mr Finger: I've also been around for those six years, so I've seen it all.

The Chair: Thank you, Mr Kormos. I wish to thank Mayor Seglins and Chief Finger.

FIRE FIGHTERS ASSOCIATION OF ONTARIO

The Chair: I wish to call forward our next delegation, the Fire Fighters Association of Ontario. Good afternoon, gentlemen. We would ask for your names for the record.

Out of the 15 minutes, could you leave some time for comments from committee members?

Mr Dave Thomson: Thank you very much, Mr Chairman and committee members, for allowing us to be present today and make a submission. I'm Dave Thomson, president of the Fire Fighters Association of Ontario, and with me is Adam Gall, a member on the two-hatter committee.

Just a little bit on who our association is. The Fire Fighters Association of Ontario is a provincial organization consisting of member fire departments, fire companies, firefighter associations and ladies' auxiliaries. This association was formed in 1899 and was incorporated in 1910. It is comprised of volunteer and composite departments across the province of Ontario. It is our position that the practice of two-hatting should be preserved for now and in the future, and it is neither rational nor desirable to reduce the reliance on two-hatters within the Ontario fire service. Simple common sense tells us that a career firefighter should be able to provide his or her skills and expertise in service to his or her community.

Volunteer fire departments are often the centre of their communities and form an integral part of that community. These two-hatters are the most dedicated of the volunteer firefighters and, in many cases, two-hatting has carried on for generations. We feel that their local communities should be able to benefit from their knowledge, skill and leadership to achieve the best public safety available.

Dedication in the volunteer forces goes far beyond any money or compensation they receive; it's helping your neighbours. However, presently if a two-hatter does assist the community in a time of need, they will be subject to putting their career on the line. Many career firefighters retain a second job or livelihood for their families; for example, as truck drivers, electricians, pipefitters and so on. No other professional association to my knowledge suspends or disciplines its members for providing their professional skills in community service.

When we look at public safety, our association stresses the impact on public safety, as also identified in the discussion paper of the fire marshal's office: (1) loss of experience and leadership—these two-hatters have many years of experience and training and most often hold a rank in leadership on volunteer fire departments; (2) increased response time until replacements are recruited and properly trained; (3) reduced daytime response because many of the two-hatters work shifts, and that's convenient for a volunteer fire department, and (4) potential reduced fire ground operations.

Compensation coverage: the Workplace Safety and Insurance Board only permits top-up of insurance coverage for volunteer firefighters, volunteer police officers and volunteer ambulance attendants. Almost all municipalities have topped up or increased this extended insurance coverage for their volunteers to the maximum allowed under the act. Life insurance varies from municipality to municipality, but all firefighters are covered to some extent for life insurance.

Volunteer retention: in today's economic and social lifestyle with employment or career changes, it is essential to retain any two-hatters in order to maintain the best protection for the community. The time frame or expectancy of a volunteer varies across the province but is approximately five to six years of service.

As indicated by the fire marshal's office in their discussion paper, the cost to replace two-hatters is huge. According to the FMO, the minimum ongoing additional cost of replacing a two-hatter is approximately $100,000 per year, and this does not include the cost to train and outfit new personnel and officers to replace the two-hatters. The cost to train and outfit a volunteer is significant. In some instances, these municipalities will lose in the end with the training, expertise and knowledge they lose. This economic loss was clearly identified in the Ontario fire marshal's paper.

Many firefighters begin their careers in the volunteer fire service. When they are hired full-time they are rookies and low men on the seniority pole, and then they are pressured to give up their volunteer positions by the full-time association.

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What is the volunteer fire service? Is it a prep school for the career fire service? I believe it is. Is that a problem? No, it's not really a problem unless we mean to cut our own throats by doing so. Many times, comments from older fire chiefs and officers seem to go against some of the training and professionalism in the volunteers, because their attitude is sometimes, "We're only going to lose these men, so why bother training them?" Small communities merely become a cost-free training school for full-time forces.

Regarding a negotiated settlement, it became clear from the FMO discussion paper process that a negotiated settlement, in the absence of any legislation, was not workable due to the fundamental lack of authority of the stakeholders to control or negotiate on behalf of their members. The IAFF constitution gives the right to charge a member to every other member. Neither the Ontario Professional Fire Fighters Association nor any International Association of Fire Fighters local has the power to prevent a member from laying charges.

Throughout the discussion paper process, IAFF locals continued to pressure two-hatters to resign. Most recently, 15 two-hatters in Clarington, Ontario, resigned as a result of a letter threatening charges and suspension from the IAFF.

On October 1, 2002, the Ontario Professional Fire Fighters Association lifted its moratorium on charges and advised all members that they have unfettered freedom to charge two-hatters.

It is clear that in the absence of protective legislation, IAFF locals will continue to charge two-hatters, and municipal volunteer fire departments will be at the mercy of this association.

We look at its impact on other legislation that's out there. Bill 148: the short title of this act is the Emergency Readiness Act, 2001, and first reading was on December

6, 2001. We as an association feel that this bill, if enacted, in the future would not have an impact on or bearing toward the two-hatters in general. Emergency training and public education are already in place, and if further assistance is required to assist, mutual aid agreements can be activated with necessary manpower and equipment for that emergency.

Regarding Bill 30, although we support the intent of Bill 30, we have some concerns with the bill in its current form for the following reasons:

First, in proposed section 56.1, we are concerned that in attempting to directly regulate the union discipline process, the bill may be open to a constitutional challenge.

Second, it only deals with two-hatters who work as volunteer firefighters and does not extend the broader principles of unfair representation to career firefighters available to most other unionized employees in Ontario and career firefighters across North America.

The goal of all stakeholders of the fire service should be to provide the best possible public safety to all citizens of Ontario, not just the minimum.

Volunteer traditions run deep. The two-hatters are as much part of our communities as any other volunteers. An attack on them is an attack on all volunteers. This is simply a matter of being able to help friends and neighbours in a time of need.

We as an association, speaking for volunteer firefighters in the province, urge you to support the intent of Bill 30: to support firefighters and their communities.

The Chair: Thank you, Mr Thomson. We have about four minutes. We'll commence on the government side.

Mr Ted Arnott (Waterloo-Wellington): Thank you very much for your presentation. I really appreciate your input on this. Unfortunately, I don't think you had a written presentation for us, but we'll be able to get it out of Hansard so that next week we can review it when it's available.

Mr Adam Gall: We'll be submitting a detailed report.

Mr Arnott: I appreciate your suggestion concerning amendments. As the individual who brought the bill forward in the Legislature on behalf of the volunteer firefighters, I'm certainly prepared to listen and be involved in discussions concerning the possibility of amendments.

There's been a recent development that I need to bring forward. This was brought up by the previous presentation from the town of Caldedon. A letter was sent on October 1 from Mr Fred LeBlanc, who is the president of the Ontario Professional Fire Fighters Association. In it he has written, apparently, all the members of the OPFFA and suggested that the moratorium that his predecessor, I guess, had recommended be put into effect in terms of new charges on members who were double-hatters be lifted, and indeed I think he's suggesting that there should be more charges rather than fewer.

I assume you've seen this letter and are aware of its contents, and I'd like you to respond to it. Why do you think the union would be taking that approach at this time?

Mr Gall: Your guess is as good as mine. Why would they be taking this approach at this time? It's a good question. It seems to me, from their perspective, that it probably would have been a better strategy to lie low at this point.

Maybe I can give you a bit of history. This whole process basically started back in 1999, when the OPFFA, at their convention, passed a resolution advising all member affiliates to start to monitor and to report on any two-hatters within their jurisdiction. This was followed up in August 1999 by a legal opinion which the OPFFA had done for the purposes of finding out whether or not, if they suspended someone from the union for two-hatting, enforced the union security clause, they would be able to have that person dismissed. The conclusion of the legal opinion they had was that because of the lack of existing legislation, yes, the IAFF would be able to suspend and then have them dismissed. They basically used that legal opinion—I wouldn't say against their members, but they used it to convince their members that if they don't give up volunteering, they are going to lose their jobs, and because of the lack of statutory protection, they've been very successful in doing that.

As I think you know, through the discussion paper process, different local affiliates continued to pressure members to quit. The Clarington people have actually received letters, I understand, and 15 of them have quit. So there's been very little respect of this moratorium by the members themselves, even though apparently it was promised by Mr Watson, the previous president. It would appear that, again, members have continued to charge and continued to pressure in spite of that moratorium, which I think goes to show just how little control the IAFF and the OPFFA have over their members on this issue.

That's why Bill 30 is so critical. I think their most recent position, of lifting the moratorium, is indicative of where they are headed, and that is to rid this province of all two-hatters.

Mr Arnott: Which is their stated intent.

Mr Gall: Which is their stated intent.

Mr Arnott: I know Mr O'Toole had a question. He represents the Clarington area.

The Chair: Mr O'Toole, and we have about one minute.

Mr John O'Toole (Durham): Thank you very much. We appreciate your presentation. It's a very important voice.

The volunteer component in my riding—my riding is Durham. It does include Clarington, and also includes Port Perry. For a lot of reasons, some historic and some just a weak assessment base, those municipalities have worked for a long time with a lot of volunteers who provide first-line, high-quality response to residents who may otherwise have their lives endangered.

I know it's a complicated issue. I'm just wondering, for those trying to work with and alongside other pro-

fessionals—and I consider the volunteers to be professional; I don't think they are a weaker standard, as some may have suggested, by anything I've seen—what caution or what protection do you afford the people who are willing to volunteer? They could do many other things, but they love the profession or the occupation of firefighter. Those 15 people are, in my view, badly needed in our community, in the short term and in the longer term as well, as part of the solution to providing first-class fire protection services in our community.

Do you think this issue can be solved through this bill, or is there something the professional association is going to do to make it the best possible solution for those communities that don't have complete full-time firefighters? I know that in all of Durham it's been an issue for years.

Mr Gall: You make a very good point there. This has been an issue for years and it keeps surfacing, it keeps coming up again and again, primarily because there is no statutory protection. If the statutory protection that Mr Arnott has proposed is in place, then this problem is not going to keep arising. Under Mr Arnott's bill, it obviously has the power to prohibit the unions from actually disciplining. We're suggesting a gentler sort of approach where we don't stop them from disciplining, but we prevent any ramifications from that discipline from affecting their employment.

Without the bill, I think you're going to see what happened in Ottawa and what happened in Hamilton. That is, the IAFF will be able to use its position and its power and this lack of protection to basically force all two-hatters out. The whole idea of a negotiated settlement is kind of moot because, as it stands now, municipalities really have no bargaining position, nor do the two-hatters. That's all with the IAFF at this point. Because they can threaten full-time-job loss—getting a full-time firefighting position is very difficult, as you know. Every time a city advertises, there are thousands of applicants. It sometimes takes years to get a full-time firefighting job.

Mr O'Toole: I know many firefighters in Port Perry want their hometown to be where they actually are firefighters. They may be in Toronto at the moment, waiting for that opportunity to open up. I'm encouraged to find municipalities that are able to support it and to move forward.

The Chair: Thank you, Mr O'Toole. We've run out of time. Thank you, Mr Thomson and Mr Gall.

1630

ASSOCIATION OF MUNICIPALITIES OF ONTARIO

The Chair: Our next delegation is the Association of Municipalities of Ontario.

Mr Kormos: Chair, while those folks are being seated, I'm really concerned about the time frame today, because Mr Guzzo is right: we've got a vote at 5:50.

Mr Arnott: The bell rings at 5:50.

Mr Kormos: Yes, that's right, but I'm suggesting that we be prepared to sit beyond 6 o'clock—the Legislature is sitting this evening—to accommodate all the folks. It will only take us a few minutes.

Mr Arnott: I would agree with that, Mr Chair.

The Chair: OK, if the need arises. Does that make sense?

AMO, we would ask you to give us your names, and we have 15 minutes.

Ms Ann Mulvale: Thank you very much, Mr Chairman. I'm Ann Mulvale, the immediate past president of the Association of Municipalities of Ontario. I'm joined today by a policy person who is working on this particular issue, Jeff Fisher. I would like to thank you and the members of the committee for allowing AMO to appear before you to comment on Bill 30, the Volunteer Firefighters Employment Protection Act. This bill is critical to many of Ontario's 447 municipalities and the volunteer firefighters who contribute to each of our communities.

As indicated, I am the past president; I'm also the mayor of the town of Oakville. Ken Boshcoff, the current president, was not available to attend and asked that I continue the association's representation on this issue. I am going to outline our interests and suggest amendments to improve the bill.

Bill 30, if passed, would go a long way to protect the employment of two-hatters, those professional firefighters who choose to assist their local communities by working as volunteer firefighters. Two-hatters have been around for decades, and while the issue of protecting two-hatters has come to a head recently, it has been an ongoing concern for many municipalities and volunteer firefighters. It needs to be resolved finally, and, with some changes, Bill 30 will do this.

I ask the committee, why should a full-time firefighter not have the ability to determine what additional work they might want to undertake, whether that is doing long-haul driving, courier delivery or being on call for fire protection in their home community? Why should they be treated any differently than any other professions? Should police officers be limited in what they can do in their off hours? Should teachers be prevented from using their teaching talents as night-time instructors or tutors?

Why should Ontario's volunteer firefighters not have similar protections to those that are available to two-hatters in other North American jurisdictions, including other provinces in Canada? We are not establishing a unique precedent in Ontario with Bill 30; we are merely following those many other jurisdictions.

For many of our members, it seems odd that the very union that in the past has fought to protect the rights of firefighters to live where they want and to work during their free time should now take action against their own membership for doing what has previously been fought for to obtain. Bill 30's intent is merely to provide Ontario's volunteer firefighters with similar protections that are available to two-hatters elsewhere and to offer them protections in line with other workers in Ontario.

As much as this is a choice-of-work issue, it is also a matter of who determines the staffing levels and composition of municipal services. Most taxpayers believe it is their duly elected councils that have this responsibility. However, recent actions of the union are impacting this responsibility, and could usurp it all together.

We know that dozens of firefighters have recently resigned as two-hatters because of union pressure, and many have indicated that they would return should Bill 30 pass. If Bill 30 does not pass, no one should be surprised to see continued resignations. I am sure no one on this committee or in the Legislature wants to contribute to a potential public safety concern in any community, either because of a partisan line or because some MPPs see this as an urban-versus-rural issue.

Let me assure you that the latter is far from true for municipalities. Large urban municipalities, like Peterborough, appreciate the benefits of having full-time firefighters who also work as volunteer firefighters. They gain leadership, training and additional experience, particularly as fire suppression as a percentage of a firefighter's work has decreased over recent years, and continues to decline. This is why the Large Urban Mayors' Caucus of Ontario, led by Mississauga's Mayor Hazel McCallion, passed a resolution in support of Bill 30. That is why the mayor spoke passionately about this at the AMO conference and there was a resounding response and a call for action. Communities helping communities is a time-honoured tradition in Ontario. Also, it cannot be forgotten that full-time fire departments have benefited in the past from volunteer firefighter departments in smaller communities, as many full-time firefighters have been recruited from those volunteer departments.

It would be unusual for AMO to appear before a provincial committee such as this and not speak to the cost implications of a policy issue. Let me assure you that this is not one of those unusual circumstances. To be clear, should municipalities continue to have their two-hatters leave the volunteer force, and if there is any acceleration, replacing them with other volunteers or full-time firefighters will have significant impact on service costs in some of our smaller municipalities. I will leave it to those municipalities that are appearing before you to outline the possible local cost implications: the potential skyrocketing nature of tax increases to ratepayers, property taxpayers, that could result without Bill 30.

I want to emphasize that property tax increases should be a determination of the locally elected municipal councils in consultations with their electorate, not by the action of unions. You know that difficulties arise when orders of government direct policy or standards that arbitrarily impact municipal services. In this case, denying municipalities the ability to use two-hatters would result in arbitrary service changes without the input of locally elected officials. Over the past seven years, the opposition parties have similarly supported AMO in the fundamental position of local democratic control over local services. This issue is no different, so we ask you to walk the talk on this bill.

Are there other solutions besides this bill?

We met with various fire associations—the chiefs, the Ontario Professional Fire Fighters Association, the Ontario Association of Fire Chiefs and the Fire Fighters Association of Ontario—to see if there was a non-legislative solution. There are none. What was offered was a phasing-out plan and grandfathering. For municipalities, and more importantly volunteer firefighters, this would have the same end result, and both proposals would likely require legislative action. As the OPFFA and the OAFC rightly pointed out in their proposals, even with agreements between stakeholders, there would still be no guarantees that charges would not occur in the future.

Therefore, we strongly urge the committee to proceed with this bill. We do believe it needs an amendment to incorporate the "duty of fair representation" provisions, section 45(3) of the Labour Relations Act, into the Fire Protection and Prevention Act. A copy of that provision is included in the appendix to our submission. Such an amendment would give individual volunteers recourse to the Ontario Labour Relations Board in the event that their association sought to take disciplinary action against a two-hatter. Along with section 56.1 in the current form of Bill 30, this amendment would serve as the enforcement clause of Bill 30. Given that other professionals are afforded access to the "duty of fair representation" provisions of the Labour Relations Act, it is only reasonable to extend such a provision to firefighters.

We also have some other amendments that will serve to clarify the existing provisions in Bill 30, and I refer you to them in the appendix as well.

Once again, I would like to thank you for allowing AMO to speak to this important piece of legislation. We urge you to pass it with our proposed amendments as soon as possible so our fire departments and their communities can continue to benefit from the skills and leadership of Ontario's two-hatters.

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The Chair: Thank you, Mayor Mulvale. We have about four minutes. We'll go now to Mr Levac.

Mr Levac: Thank you for your presentation, Ms—

Mr Kormos: He uses all the time again; I get shafted out of any conversation with this mayor?

Mr Levac: You have two minutes left. You're using up my time.

Ms Mulvale: Remember, Peter, you can talk to me at any time. You don't have to feel shafted.

Mr Kormos: I know that.

Mr Levac: Thanks very much, Ann, for your presentation. I appreciate your being here.

Earlier in your presentation you mentioned teaching, that the same should be afforded should teachers be prevented from using their teaching talents at nighttime and doing tutoring. That's permissible as long as it falls within the constitution of the teachers. So if I start

teaching things that are not acceptable to the unions, then I can be disciplined.

In another circumstance, I bring to your attention that if I were sitting on a beach in Florida, speaking to a friend who happens to be sitting beside another teacher, and I say something about that teacher, I've got 48 hours to, in writing, say what I said to that teacher or else I can be disciplined by my union. So the discipline doesn't fall within the realm of simply on the job. Would you accept the reality that constitutions in the unions have a right to exist?

Ms Mulvale: No one's denying that they have a right to exist. What we're suggesting to you is that they don't have a right to dictate policy to municipally elected governments or to impact in this way, without a collective bargaining framework, the cost of municipal services. Obviously, there is good language in constitutions of unions. No one from AMO is arguing against the constitution of the union if it deals in a fair way with its union membership. But you will agree with me, if you look back at history, that unions have fought for the right of their membership to use their free time as they see fit.

Thirty years ago, firefighters were fighting for the right to hold jobs outside of the fire service. They were fighting for the right to be employed as firefighters in a community and not be required to reside in it. So in my response, and that on behalf of AMO, we're trying to assist union constitutions in not going backwards and not being used as a disservice to some of their members.

Mr Levac: In the larger community, if that were to take place—for instance, I'm looking at the unions' or the associations' ability to negotiate a fair contract—what would happen, or has there been a rationale used that if I can go to a small community and find that service for, let's say, $25 or $30 an hour and I'm paying $45 or $50 an hour here, and we're providing what's been described as the same service, would that interfere with their ability to negotiate a contract?

Ms Mulvale: I don't think so. In fact, as a mayor, I sit at the contract negotiation tables with firefighters. We have no volunteer firefighters in my community—haven't for years. That was a negotiated thing. That evolved at the negotiating table. So we're not trying to stop the collective bargaining agreements at all. We're here to protect the rights of municipally elected people to provide service levels, and we're here to protect the rights of the firefighters.

I can tell you, many firefighters want us to be here making these submissions. There is not unanimity within the firefighters' unions about that part of the constitution and the way it is being deployed.

Mr Levac: I would agree with you on that. I would definitely agree with you on that. I'll pass.

The Chair: Thank you, Mr Levac. That actually wraps up the time. I could give you a full slate on the next one, Mr Kormos.

Mr Kormos: You mean he exhausted the time?

The Chair: Yes.

Ms Mulvale: Mr Chairman, if it helps MPP Kormos, I miss his question too. Thank you very much.

The Chair: Thank you, Mayor Mulvale and Mr Fisher.

MNJIKANING FIRST NATION
RAMA RESERVE

The Chair: Our next delegation: I wish to call forward Mnjikaning First Nation (Rama Reserve), and I may ask for a correction on that pronunciation.

Mr Mark Pankhurst: Thank you. It's Mnjikaning First Nation.

The Chair: Thank you, and your name, sir?

Mr Pankhurst: My name is Mark Pankhurst.

Mr Chairman and committee members. I'm here today to speak in support of Bill 30. My presentation will be very brief and to the point. I'd like to take a moment to talk about my professional experience and background. I've been a full-time firefighter for 14 years. I have been a double-hatter firefighter with the City of Kawartha Lakes Fire and Rescue Service for 10 years. I am presently the fire chief of the Mnjikaning Fire Rescue Service, otherwise known as the Rama Reserve.

I'd like to take a couple of minutes and speak about basic fundamental entitlements and responsibilities, and I'd like to start out with the taxpayer. Taxpayers are entitled to fire protection services as legislated in the Fire Protection and Prevention Act, Bill 84. Taxpayers choose the level of fire protection services for their community.

Elected representatives: municipal councils establish the level of fire protection services required based on taxpayers' requests. Municipal councils create fire protection, establishing and regulating bylaws. These bylaws outline how the fire protection services will be delivered to the community.

The firefighter is responsible for the delivery of these fire services to the community.

The fire chief manages the fire department, which includes the delivery of economical, efficient and effective services that meet the performance expectations of the community.

The chief administrative officers or city managers manage municipal resources effectively in times of fiscal restraint.

The union is responsible for the representation of firefighters in the collective bargaining process, which includes the negotiation of fair wages, benefits, pension plans and general working conditions. I'd just like to keep in mind and reinforce fundamental entitlements and responsibilities as we move through, and those are basically what I've listed.

The composition of firefighters in Ontario: there are approximately 10,000 full-time firefighters and 18,000 volunteer firefighters in the province. This is a $1-billion asset in Ontario. Approximately 2,000 of these firefighters are double-hatters. The average career of a full-time firefighter is 25 to 35 years and the average career of a volunteer firefighter is five years.

I'd like to speak about the utilization of double-hatters. As a former fire chief within the City of Kawartha Lakes Fire and Rescue Service, Mariposa division, and presently the fire chief of the Mnjikaning Fire Rescue Service, Rama Reserve, it is my professional opinion that the utilization of double-hatters is an essential component in the delivery of economical, efficient and effective fire protection services for the following reasons: double-hatters create a win-win situation for the fire departments they work for; knowledge, training and experience are continually exchanged between the departments they work for; double-hatters are shift workers and are available through the day to respond to calls; and the average career length of a double-hatter as a volunteer firefighter exceeds the five-year average.

Other fire protection services: there are many full-time firefighters in Ontario who are not double-hatters and provide services to fire departments on their days off. Some of these services are as follows: fire prevention, ice and water rescue training, high-rise training, auto extrication training, hazardous materials training and hazardous materials response.

The Mnjikaning Fire Rescue Service and the City of Kawartha Lakes Fire and Rescue Service have utilized many of these services. These services have been a vital component in the delivery of economical, efficient and effective fire protection services that meet the performance expectations of the community.

What are the consequences of defeating Bill 30? Basically, the fundamental right of council to establish the level of fire protection services will be taken away. The fundamental rights of the fire chief to manage the fire department will be taken away. The fundamental rights of the chief administrative officers or city managers to manage municipal resources will be taken away. The fundamental rights of the firefighter who wants to serve as a double-hatter or provide other fire protection services will be taken away. Most importantly, the fundamental rights and entitlements of the taxpayer to choose the level of fire protection services for their community will be taken away and the door will be opened for the unions to dictate taxation policies to the taxpayer.

Thank you very much for inviting me to speak on this very important issue. Please feel free to ask me any questions you may have.

The Chair: Thank you, Chief Pankhurst. We have about five minutes.

Mr Kormos: So the casino is in your jurisdiction, is it?

Mr Pankhurst: Yes.

Mr Kormos: Which puts some special pressures on your fire service.

Mr Pankhurst: Huge.

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Mr Kormos: Yes, it's been peripherally the subject matter of a whole lot of debate here around some other legislation.

First, let me assure you and other people that if the government wants this bill to pass, it's going to pass. The government has control of it. It has received second reading. The government has a majority and if the government wants the bill to pass, it will pass.

Having said that, I'm concerned because everything you say I'm listening to, but we've been getting such a patchwork, little bits and pieces. One of the concerns I have is that our Mr Fenson tried to obtain a copy of the fire marshal's discussion paper around the issue of double-hatting, because I think that would be a very valuable thing for all of us to have access to, to see the full painting instead of just little pieces of the puzzle. Regrettably, the fire marshal sees it as a private document and at this point isn't going to give us access to it. I'm going to ask the researcher to try again.

Apparently the membership of the Whitby fire service utilized, according to one report we've had, article XV of the IAFF constitution and conducted a hearing around the matter. Are you aware of how that process took place?

Mr Pankhurst: Somewhat.

Mr Kormos: Tell us a little bit about that, because the problem is that nobody has told me about that yet.

Mr Pankhurst: Actually, would I be able to refer any of those types of legal questions to Adam Gall?

Mr Kormos: Sure, please.

Mr Pankhurst: He's probably more qualified to answer those questions.

Mr Kormos: Come on up.

The Chair: We'll ask for your name, sir.

Mr Gall: Adam Gall.

Mr Kormos: What was the process in Whitby, for instance, a small, 86-member firefighting service?

Mr Gall: Basically, there was a full-time firefighter in Whitby who was a volunteer in Kawartha Lakes.

Mr Kormos: That's where you were.

Mr Gall: Yes, exactly. Basically, his local union pressured him to resign his volunteer work. He refused to do so. He felt it was his right to do so. So they proceeded to charge him—you're correct—under article XV, section 3, not to carry on secondary employment as a full-time firefighter. That hearing proceeded on August 20 and we're waiting for a decision.

Mr Kormos: So that hearing took place internally, right? Has there been a judicial review? What's become of it? What's happened to it?

Mr Gall: No, we're only at the very first stage. What happened was that the IAFF constituted a trial board at the Oshawa local. They had the trial on August 20 of this year. They then provided transcripts from the trial. We were given an additional seven days to provide written submissions. That's all gone in. They now have 60 days. I think the date was September 6. They have 60 days from September 6 to render their decision. This is just a first tribunal. Then there's a huge system of appeals through the IAFF constitution.

Mr Kormos: Where the lawyers make money.

Mr Gall: Not this lawyer, I can tell you that much.

Mr Kormos: Fair enough. You're not taking legal aid certificates either?

Mr Gall: No, I'm a volunteer. I'm doing this as a volunteer and that's what we volunteer to do.

Mr Garry J. Guzzo (Ottawa West-Nepean): The old legal aid system. You remember that.

Mr Kormos: I remember it well.

Mr Gall: Anyway, we have to go through. Once that decision is rendered, if they do convict him, then we appeal it to the IAFF president and then, beyond that, to the executive committee and then beyond that to the membership at large. So the appeal process is about two years long.

Mr Kormos: How many other instances are you aware of the process being formalized as it was with Whitby?

Mr Gall: In Hamilton there were six firefighters charged.

Mr Kormos: Local 288?

Mr Gall: Yes, Local 288. There were six firefighters charged.

Mr Kormos: What happened there?

Mr Gall: I'll get into that when I present, if there's enough time.

Mr Kormos: Fair enough.

Mr Gall: So if you want, I can hold that off till my presentation.

Mr Kormos: Because I think we should hear that. I do, Chair, ask you to request that Mr Fenson request of the fire marshal once again the discussion paper. It seems to me that thousands of people—maybe not thousands, but hundreds—have seen it; everybody but us. You can't keep a secret around here anyway. Ask Mr Jackson.

The Chair: I might mention that we do have about two minutes, if there are any very brief comments.

Mr Arnott: I just want to thank the presenter for coming forward today and expressing his views on behalf of the fire department that you represent. Thank you very much.

Just to speak to the point Mr Kormos made, of course, in terms of the passage of this bill, it's probably somewhat more accurate to characterize the situation this way: if the assembly collectively, in the majority, wants the bill to pass and if it's called for third reading and there is a vote, yes, it will pass. But as you know, it wasn't necessarily a vote along party lines at second reading. I think he also perhaps understates his own ability to filibuster, because Mr Kormos is the one who spoke for 17 hours on one bill, I recall.

Mr Kormos: The rules are changed. They'll never let me do that again.

Mr Arnott: He certainly has the ability to drag out a debate.

Mr Kormos: My own Premier changed the rules. Don't you remember?

Mr Arnott: But I know he won't want to do so on this issue, because he realizes how serious it is, and he wouldn't employ that kind of a tactic, I'm certain.

Mr Levac: He couldn't even if he wanted to.

Mr Guzzo: Where is he now? He's a junior partner in that law firm that Harris is in.

Mr Kormos: They hired Mike Harris, yes.

Mr Guzzo: That's called progress.

The Chair: I wish to thank you, gentlemen, for coming before the committee.

GREATER HAMILTON VOLUNTEER FIREFIGHTERS ASSOCIATION

The Chair: I wish to call forward our next delegation, the Greater Hamilton Volunteer Firefighters' Association.

Mr Gall: That's me.

The Chair: OK, moving right along.

Mr Gall: Busy guy.

Mr Guzzo: If you had a legal aid certificate, you'd be triple-billing. That's why the system is broken.

Mr Gall: I don't do legal aid. Sorry.

The Chair: Mr Gall, do you wish to proceed?

Mr Gall: I would like to thank the committee very much for bringing this bill forward so quickly and giving us the opportunity to speak. I would particularly like to thank Mr Arnott for his vision and courage in bringing this bill forward. It certainly helped us get this issue on the front burner.

I am Adam Gall. I am a volunteer firefighter in the city of Hamilton, formerly in the municipality of Flamborough, and I am also president of the Greater Hamilton Volunteer Firefighters Association. We're the largest organized union of volunteer firefighters in the province.

The reason I am presenting here today is that we were basically the centre of the storm of this double-hatter issue. It was Local 288 which was the first union to bring charges against members. Just to give you a bit of background, I think I mentioned earlier that the OPFFA originally passed a resolution in 1999 advising all its affiliates to begin to monitor, collect names and to report that information to both the OPFFA and the IAFF. This was followed in August 1999 by a legal opinion done on behalf of the OPFFA advising them that they would be entitled to charge members, suspend them from the union and thereby have them dismissed from their full-time firefighting jobs.

As a result of that legal opinion and the resolution, Local 288 in Hamilton on February 2, 2001, issued a special notice to all its members asking them to stop their volunteer employment or potentially face charges. Local 288 made it clear to those members that their full-time careers would otherwise be in jeopardy if they did not comply. At that time the city and the fire department pledged support for the two-hatters, regardless of the union actions. However, by September, 2001, all but six of the Hamilton two-hatters had either taken a leave of absence or resigned their volunteer positions. Well over 20 members, including full-timers recently recruited from the volunteers, were then lost from the volunteer service.

Many of these members are willing to return if Bill 30 is passed. The six remaining two-hatters—and this goes to your question, Mr Kormos—were charged by the local president of 288 and there was a trial date set for January

28. That trial was then postponed because we had our application for certification before the labour board and it had not been determined at that point whether we were volunteers or whether we were part-time firefighters.

Mr Kormos: Your application for certification—

Mr Gall: Under the Labour Relations Act.

Mr Kormos: As a—

Mr Gall: As a union.

Mr Kormos: Yes. So you are a group of volunteers that have your own—

Mr Gall: We are a certified union.

Mr Kormos: You are unionized. Which union is that?

Mr Gall: The Greater Hamilton Volunteer Firefighters Association.

Mr Kormos: OK, I'm sorry. Thank you.

Mr Gall: So there were six remaining two-hatters who refused to take a leave of absence or resign. There was a trial date set for January 28. That trial was postponed pending the outcome of our certification application.

On February 1, 2002, Toronto Local 388 sent out letters to all its members who were volunteering in Hamilton requesting them to resign from their volunteer positions within 30 days or face charges. A number of additional volunteers were then lost as a result of that letter from the Toronto local.

On February 18, 2002, Chief Glen Peace, the fire chief for the city of Hamilton, wrote to the fire marshal advising him that the actions of the IAFF were creating a public safety problem in Hamilton and that urgent action was needed to prevent the resignation of two-hatters. That was the genesis of the entire discussion paper process with the fire marshal's office. It was a result of our fire chief writing to the fire marshal's office and advising of the imminent public safety problem that prompted the FMO to undertake the discussion paper process.

Mr Kormos: When did that correspondence take place?

Mr Gall: That was February 18, 2002.

On April 17, 2002, the labour board awarded us a certificate as volunteers under the Labour Relations Act. As a result of losing the hearing, the city withdrew its support for the two-hatters and joined Local 288 in attempting to secure their resignations. By May 22, 2002, under mounting pressure from both the city and Local 288, the remaining Hamilton two-hatters agreed to resign by the end of 2002. They are obviously hoping that this bill will pass by late 2002 so they won't have to resign.

What I really want to make clear here is that there was never any kind of negotiated settlement in Hamilton, which is what the IAFF is claiming. This simply wasn't true. It was the lack of protection of Bill 30 and the continual pressure from the union against the two-hatters that caused most of them to resign or to take leaves of absence pending the passing of Bill 30.

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I think Hamilton demonstrates clearly the power of the IAFF to eventually force all two-hatters to resign if Bill 30 is not passed. Career firefighting positions are extremely difficult to obtain. Few are willing to risk their full-time livelihood in the absence of clear, statutory protection of their volunteer activities.

Personally, there are a number of two-hatters in my rural fire hall, not only from Hamilton but also from other full-time jurisdictions. I can tell you that these are people who view firefighting as more than just a job. These are people who care about their local communities and neighbours and are willing to provide their skill and expertise at little or no cost in order to provide their friends and neighbours with affordable fire protection. These people are our friends, neighbours and fellow volunteers, and as far as we're concerned, they're irreplaceable.

The actions of Local 288 in attempting to eliminate the two-hatters from the Hamilton fire department have been hugely destructive, not only to the available service to the community, but also to the reputation of Hamilton Emergency Services and the morale of both the volunteer and full-time ranks. The actions of the IAFF have caused an already fractured relationship between full-time and volunteer forces to worsen significantly. The mass of local media attention surrounding the two-hatter issue has served not only to slow the acceptance of amalgamation by the rural communities, but has also created further conflict between the urban and rural areas. In the absence of legislation like Bill 30, this pattern is going to repeat itself time and time again across the province.

Just a quick note on current legislation: as you are all probably aware, the fire protection act was amended in 1997, as was a lot of the labour relations legislation. If you take a good, hard look at those acts, the FPPA, the Employment Standards Act, the Labour Relations Act and the Public Sector Labour Relations Transition Act all clearly provide, and the statutory structure clearly provides, for the continuance of double-hatters.

In our application for certification before the board, the board had no issue with putting the two-hatters in the city of Hamilton in both unions. It was not even a concern for them. So any spectre of labour relations problems or anything are simply unfounded. I've certainly not seen any evidence of it, and the labour board itself doesn't seem to think it's a problem.

The only missing element in the current statutory scheme is the protection against union action that may cause suspension from the IAFF and, in turn, full-time job loss. This is a protection that's already enjoyed by the vast majority of Ontario workers and firefighters across North America, so it's hardly anything new, as I think Ms Mulvale had pointed out. We're merely asking to be put on the same level as other jurisdictions.

I want to make very clear that our situation in Hamilton has nothing to do with an amalgamation issue. It has to do with the respect of the local communities and the volunteers. It's an issue of individual freedom of association and right to work. If Bill 30 had been in place at the time we amalgamated, none of this mess would have happened and the amalgamation would have been a lot smoother, to be quite honest with you.

The only other thing I'd like to add is my concerns about Bill 30. I have concerns with 56.1; as the FFAO

voice, there may be some constitutional problems with that. We would like to see a provision that doesn't necessarily prohibit the union from disciplining its members, but protects all their employment rights from the results of any such discipline, so that basically their full-time work would be unaffected should they breach union rules, which again is the protection most workers in this province already have.

The Chair: We have a bit of extra time. It is the Liberals' turn. We have about three minutes for each party, if you wish.

Mr Levac: Thanks for the presentation. In our previous discussions, you had hit on the issue I expressed to you as my concern, the fact that you're going to stick your hand into a constitution and say you can't discipline. Quite frankly, I was offended by that and I understand that you were, to a certain degree, offended by the fact—

Mr Gall: I wouldn't say offended. I think we just thought it might—

Mr Levac: You thought it could be unconstitutional—

Mr Gall: I think it could be unconstitutional, yes.

Mr Levac: —and could cause some problems for the professional firefighters, volunteer firefighters, municipalities, and quite frankly, needs to be reworked. Is that a fair—

Mr Gall: Yes. Obviously, we'd like the bill to be as strong as possible to resist any constitutional challenge. That is certainly an amendment we'd be willing to look at, work on and support, as long as—our concern is that all the employment rights of the full-time firefighters are preserved. We want to avoid any transfer or anything like that out of the fire service. We just want to ensure that their membership is maintained for the purposes of their relationship with the employer. What the union does within its own bailiwick is up to them.

Mr Levac: I'll be quick with the next two. The fire marshal indicated between 600 to 1,000 two-hatters may exist. Some people have indicated as high as—I've heard, 3,000. We've heard today that 2,000 two-hatters exist. Do you have a guesstimate on how many two-hatters we have?

Mr Gall: It's real tough, the reason being that a lot of two-hatters—I know that in our previous municipality of Flamborough it was very common practice, for certain reasons, for volunteer workers to work under an assumed name, that sort of thing. It is because of the union position on this. It's a very hard number to come to. A lot of the two-hatters, for obvious reasons, aren't willing to come forward because they then become the object of harassment from their union locals. It's hard to guess, and whether or not an inventory could be undertaken, I'm really not sure.

Mr Levac: The last few deputations I've heard have talked about little or no cost to the municipality. I'm concerned this is turning into a debate on how to save money, as opposed to providing a service that's been costed at a certain expense. I am concerned about that. Is there any kind of word you can share with me about whether or not it's strictly a cost issue?

Mr Gall: It's a cost issue in the sense that a rural municipality simply cannot afford to have a full-time fire station. It's pointless. You're going to have guys sitting there for one or two calls a week. It makes absolutely no sense whatsoever. To me, it's an issue of cost in the sense that full-time departments are an impossibility for most rural municipalities. Obviously, volunteers are the only practical method of delivering that fire service. Otherwise, people would be paying more in taxes than they would in rent.

Mr Levac: I totally agree with you.

The Chair: We'll go to Mr Kormos.

Mr Kormos: It's interesting, Mr Gall. I'm aware of volunteer firefighters joining the IWA as a trade union, joining the Teamsters, I understand, although nobody's told me where the Teamster locals are in the province.

Mr Gall: North of Kawartha.

Mr Kormos: There you go. Yours formed its own association without affiliating with—

Mr Gall: Actually, we have just recently affiliated with a larger union, the Christian Labour Association of Canada.

Mr Kormos: I think that's a whole new interesting event in the history of volunteer firefighting services. You heard my question. You assisted in the response to it. You're right, we haven't, but we may well before these hearings are over meet a double-hatter who has been called to task by his union.

I'm interested. For instance, in the Whitby local, I'm told there are 86 members in that local. I don't know how many of those members are double-hatters, but I'm interested in hearing how it is that a double-hatter who felt he or she was being persecuted, why they wouldn't be able to rally the support of their sisters and brothers in that 86-member local, because that membership could instruct their leadership not to prosecute?

Mr Gall: Actually, that's not correct.

Mr Kormos: Let me put that to you.

Mr Gall: As has been pointed out by a few of the deponents here, the IAAF constitution gives the right to charge to every single member—not to the affiliates, not to the IAFF executive, not to the OPFFA, but every single member of the IAFF has the power to charge another member, so a member from Tallahassee can charge a member from Gander, if they so desire.

Mr Kormos: Was it people outside the Whitby local who were doing the charging?

Mr Gall: No, it was one member from the Whitby local who charged him.

Mr Kormos: Then the president, I presume, has a responsibility and duty in response to that charge.

Mr Gall: No. The president was the one who charged him, but charged him as a member, not as the executive.

Mr Kormos: Was the president re-elected at the next go-round?

Mr Gall: I don't know when they had they had their elections or whatever. I really don't know.

Mr Kormos: You understand what I'm getting at. The litigation that's been undertaken so far is still very much in the air. All of us have lots of letters of people commenting, and not inappropriately, on, let's say, the constitutionality of article XV. My concern is that none of this has been allowed to progress through to its final, logical conclusion. I give great weight to the Ontario Association of Chiefs of Police who express concerns about a legislated so-called solution and the divisiveness that's going to cause. I know there's already some growing divisiveness between full-time firefighting services and volunteers, especially in those communities that are contemplating eliminating the volunteer forces. I'm not talking about rural areas where they are totally dependent upon volunteers, but you've got communities now that are saying, "Hmm." Again, I've gone to the wall for those volunteers, indicating they are a part of the municipality's history, traditions, and you don't whack people over the head, blindside them.

Are you aware of some of these other frictions that are going on that go well beyond the double-hatter issue?

1710

Mr Gall: There's always been friction between full-time and volunteer. The position of the full-time association has always been that no services should be provided by volunteers whatsoever. I have to be honest with you: I think it's probably that sort of view on behalf of professional firefighters that has been at the base of a lot of the problems between volunteers and professionals.

Mr Kormos: Why do volunteers unionize?

Mr Gall: Why did we unionize?

Mr Kormos: Yes; why do volunteers unionize?

Mr Gall: We unionized because the city tried to force us into the full-time union, and the full-time union had pledged to eliminate us by 2003. So for us it was a matter of survival.

Mr Kormos: So you're going to engage in collective bargaining now around what?

Mr Gall: What do you mean?

Mr Kormos: Well, you're going to engage in collective bargaining—

Mr Gall: Yes.

Mr Kormos: —around what issues?

Mr Gall: With the city? The same as any other union would do: working conditions, wages—

Mr Kormos: Salaries, any pension issues.

Mr Gall: Salaries, policies, pensions. Well—

Mr Kormos: Are there pension issues?

Mr Gall: —we wouldn't be going through pensions, but different issues.

Mr Kormos: Benefits issues, salaries, are going to be the subject matter of your negotiations?

Mr Gall: Yes.

Mr Kormos: So all those very same things, by and large, that the full-time firefighters, through their union, advocate for.

Mr Gall: Right, for their members.

Mr Kormos: Bill 84 sure changed the world of firefighting in Ontario.

Mr Gall: It certainly did, yes.

Mr Kormos: I want you to understand I didn't vote for Bill 84.

Mr Arnott: Thank you, Mr Gall. You indicated you're a practising lawyer and a volunteer firefighter. You have a unique expertise that you bring to this committee, and I'm pleased that the opposition parties both had an opportunity to ask questions, because it elucidated some additional helpful information for all of us. I hope we can follow that procedure with future rounds, Mr Chairman, if that's possible.

Mr Gall, I just want to ask you one simple question: what do you think will happen to fire service in Ontario if Bill 30 doesn't pass in some form?

Mr Gall: Well, I've got to be honest with you. Obviously I don't think this issue has generated as much publicity and as much activity as it has this go-round. As you know, on October 1 the union lifted the moratorium on charges. I think it's pretty clear what's going to happen if Bill 30 doesn't pass.

Mr Arnott: Well, tell us what you think.

Mr Gall: I think the IAFF is going to try to eliminate every two-hatter in this province.

Mr Arnott: What effect would that have on the volunteer forces in many small towns in Ontario?

Mr Gall: It would have a huge effect. In my fire station alone we have 25 members, and we have at least five double-hatters; actually, more than that: six or seven. So you're talking 25% of our fire hall being double-hatters. If they are gone, we have to replace them. Two of those double-hatters are officers and certainly two of our most committed volunteers. They live for the fire service. That's why they do the volunteering, because the full-time just isn't fulfilling; they want to do the whole thing.

Mr O'Toole: I do first want to pay respect, Mr Gall, to your expert view and the amount of time you've committed to establish the issue and the credibility of the volunteers and to make sure it's not a reduction in service, that it's more legitimizing people's right to choice of work. I see it as that in the broadest sense, really. They should have the right to choose work.

I just want to put this clearly on the record. Scugog township is a part of my riding of Durham, and there the chief, Richard Miller, is part-time; Captain Dave Ballingall, the district deputy chief, is more or less part-time; and the deputy chief, Rob Gonnermann, is also part-time. In fact, they don't really have any full-time. I would put to you they probably should have full-time, and probably as their assessment base is growing they will have. I support that. But I've met with, when they opened their new station just recently here, and brought it up with the mayor: what is the future? It's a very complex community, sort of separated by Lake Scugog, and some of the travel times—this 10 and 10 is almost impossible to achieve without the volunteers in small places like Caesarea and Blackstock. They could never possibly achieve it.

I guess my point to you is that you put a very strong argument, a very credible argument, forward here today,

and our briefing notes do support much of what you've said. On the record here I want to applaud Mr Arnott for looking after the whole theory—I see firefighters generally in my community as people helping people. Even Whitby—I was on council here in Durham—had many volunteers. The plan was to eliminate them. That may be, in the final resolution of large communities growing and maturing and becoming more and more full-time until ultimately there is no space left for volunteers—that might be appropriate. In some areas, it's not. I think that we're looking for a solution here which Ms Mulvale I think characterized as having local governance pay for fire service.

You don't have the right to strike, and there have been arbitrated hearings and settlements where they've been forced to pay them a certain amount. Arbitration rules—in fact, it said "irrespective of the municipality's ability to pay." So those decisions are made with public safety at stake for the right reasons. What we're looking for here are the rights of the independent firefighters to teach part-time or to work in construction or to work as volunteer hockey coaches, all the things they do in their time away from their work.

As you've said, clearly in the first few years—the life of a volunteer, I think you said, was five years. In my experience, a lot of them choose to go further in the profession, perhaps move up, take further training, but they bring a lot to the local community. I see it first-hand. In the community of Clarington, I've talked to Chief Creighton and Deputy Chief Gord Weir, Bill Hesson, Graydon Brown—just recently on the weekend I ran into him—and Tim Calhoun, the past president of the association; I've met with him many times.

I think that this bill is the right thing for small towns, and yet the professional association needs to listen to what the people are saying. It's not a fight with professional firefighters at all. But the culture inside must be terrible for those volunteers, or double-hatters, so to speak, working in a suspicious, undefined kind of circumstance. As Mr Kormos said, the final rulings of their ability to suspend haven't really been made, but I'm confident, with the work you've done, that in the end individual firefighters will have the right to work where and when they choose to work.

Mr Guzzo: Do you understand the question, sir?

Mr Gall: I know there was a question in there.

Mr Guzzo: You're the only one in the house who does.

Mr Gall: He did raise a point—

Interjection.

Mr Gall: No? Can't talk?

The Chair: OK. Very briefly, sir.

Mr Guzzo: Do you want us to stay after 6 o'clock and allow that?

Mr Gall: He did raise an interesting point which I think is very important to point out because the IAFF has made this argument and it simply doesn't hold water. They think that the use of double-hatters somehow is limiting municipalities from expanding their full-time service. That's entirely untrue. When you go to "A full-time service is dependent on your demand, on the insurance underwriters"—they set certain parameters which fire services must meet in terms of going full-time. I can't think of any instance where the existence of a two-hatter has prevented a municipality from going to a full-time fire department. That's simply a red herring. That's all I have to say.

The Chair: Thank you, Mr Gall. I appreciate your remarks.

The Toronto Fire Fighters' Association was slated to do a delegation. I understand they are not present.

THUNDER BAY PROFESSIONAL FIRE FIGHTERS ASSOCIATION

The Chair: We'll go forward to the next delegation, the Thunder Bay Professional Fire Fighters Association, Local 193. If you could approach the witness table.

You have 15 minutes, gentlemen. I'll ask for your names, please.

Mr Les Newman: Thank you, Mr Chairman. My name is Les Newman. I'm the first vice-president for the Thunder Bay professional fire fighters. With me is Ron Gorrie, the president of our association.

I would like to thank you and the committee for the opportunity to present the views of our 204 members with respect to this bill.

What we believe we're dealing with here is a narrowly focused bill that only really represents one side of the issue: that of the municipalities using full-time firefighters as part-time firefighters. To be honest about it, in my mind there are very few true volunteer firefighters around. A great many of those who work as volunteer firefighters do indeed get paid for their services, and some quite handsomely.

There appears to be little consideration in this process given to the municipalities who are the full-time employers of these firefighters. The city of Thunder Bay has invested time and money in giving my members the skill sets that we use every day at work on their behalf.

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Do we now have the right to take those skill sets and sell them to another municipality? Are those skill sets really of much of a fit to another municipality if the municipalities are that diverse? If indeed they are, then the full-timer probably finds himself in a position of authority in that part-time department, either as an officer or possibly even a chief officer. If so, then I believe it may be difficult with some individuals to remember which role they're in when they start switching back and forth. If we enter the realm of the major emergencies, ice storms, other major weather events, even the possibility of terrorist attacks, should one of these events involve both municipalities that this individual works for, I am fairly certain that his full-time employer is going to want to see him at work before he sees him at work at his part-time employment, if for no other reason than to fulfill the mandate of his contract with his full-time employer.

This bill purports to protect the employment rights of career firefighters, and it is career firefighters we're talking about. With all due respect to the writer for a noble purpose, I believe that employment protection is my job as a duly elected representative. I think you would be hard pressed to find a municipal leader who deals with firefighters' unions across this province who would admit that we have done a deficient job in protecting and enhancing the employment rights and working conditions of our members. When I approach the bargaining table, I would prefer not to have my own members undermining my position by working elsewhere at the same job for less than union scale.

There are those in support of this bill that would have you believe that the only reason that the International Association of Fire Fighters and the Ontario Professional Fire Fighters Association, and indeed the local associations, are opposing this bill is to bolster our numbers, that we are creating a situation whereby the part-time employers are put in the position of having to create full-time firefighter positions and therefore more union members.

I would be among the first to admit from a union standpoint that would be wonderful, and in a perfect world it would be, but I am also realistic enough to appreciate the fact that this is merely pie in the sky. My duty to the members I serve is to provide the best possible and safest set of working conditions that I can. This bill does not support that.

As a duly elected official I am sworn to uphold the constitution and bylaws that govern our association, documents that are duly, freely and democratically created by the members we serve. That membership also strives by the same process to keep these documents current and relevant. I believe that this is a similar approach to the conduct of business in this Legislature and why I am appearing before you today. If I were to try to run something past my membership that was contrary to my constitution they would be in my face in a heartbeat, and rightly so, and admittedly it has happened. Now you bring forward a bill that would force me to violate one of the constitutions and bylaws that we live by.

If I'm hurt on the job as a part-time firefighter, how does my full-time employer deal with the WSIB? The act compels my full-time employer to provide me with modified work. If the position does not exist or is already full, how far must they bend to accommodate me? How long must they pay the overtime costs to cover my absence? What are the consequences to the benefit provisions of my working agreement, health care benefits and insurance plans? I would think that this scenario becomes even more insidious when the employer is self-funded, because now I put a drain on the benefit resources for all that is even greater and with no direct connection to my full-time employment.

What are the further consequences if my absence causes my full-time employer overtime? With the current emphasis amongst employers on attendance management, my full-time employment could easily be in jeopardy because of an accident at a part-time fire. I know that this same jeopardy could occur as the result of any accident, but the inherent dangers in firefighting make the possibility of a career-ending injury or death exponentially greater.

If I spend hours at a fire with a part-time department, how do I then effectively go to work at the full-time department? How safe am I for my crew, for our customers, for myself? My crew may not have much faith in my judgment to take them into harm's way and bring them out again safely if I am obviously tired and distracted from lack of sleep. Can the citizens trust me to make the right decisions to save their loved ones or their property if I am not operating at my best?

Indeed, I believe the current Fire Protection and Prevention Act contemplated these problems when the clause was put into the act that limits our employment as firefighters to an average of 48 hours a week. The majority of professional fire departments across this province already work a 42-hour week. That only leaves six hours legally under the act to put into a volunteer department.

These situations could also bring up issues of liability to the corporations that we work for, to our unions and to ourselves if someone is injured or, worse yet, killed because I'm not performing at the level and standard that my full-time employer has come to expect. On the other hand, if I'm so tired that I can't go to work—I've decided after this fire that it's not going to happen—I can just phone in and book off sick. I have that provision within my working agreement. My full-time employer is now forced to bring in overtime to cover my absence. It hardly seems fair to them, considering their investment in my career.

In comparing the different types of firefighters in the province, we look at training. The fire marshal's office does provide a curriculum for firefighters which provides a basic nuts-and-bolts process by which to learn the business, or in other words a training standard at the lowest common denominator. This standard is one that does apply in most situations at a rudimentary level; however, each municipality must then enhance that training to reflect the realities of their own situation. Are you then asking a firefighter to acquire two skill sets—one for his full-time job and one for his part-time job—that could represent drastic differences, and then ask them to develop the ability to switch back and forth between them and know clearly which one to use at any given moment?

Every day, when we as career firefighters go to work, there is an element of training accomplished. We familiarize ourselves with our equipment, making sure that it is operating properly, and it gives us a greater familiarity with that equipment when we need it. We are encouraged to spend time driving through our response areas to note anything new, anything that's changed, and pass that information on to the rest of the department. We are made aware when there are infrastructure repairs that could impede our response times—water systems, streets.

This creates a situation where much of what we do and much of how we react in an emergency situation happens automatically because this crew works together, we know each other's capabilities, and we know in a lot of cases what each other is thinking.

Going to work in a part-time department will, most likely, not provide me with this type of hands-on familiarity, nor will I be provided with the same level of information flow that I have grown to expect as a full-time firefighter. I could also be put in the situation of expecting something to happen because that is normally the way I work, when in fact it may not because of the difference in the level of experience of the part-time firefighters. The training for part-time firefighters, the ones I am aware of: they train perhaps once a month, once a quarter, maybe even less. With all due respect to their intentions and their desire to serve their communities—I would never take that away from them—what would I then expect of their abilities in a life-and-death situation?

We have been told in discussions with AMO, by our provincial executive, that this is a local issue for municipalities to deal with. We would then suggest that local solutions would be most appropriate. Bring all the relevant stakeholders to the table with all of the necessary factual information, not guesstimates, with the intent of striking a solution that is workable for everyone. The municipalities that believe they must rely on full-time firefighters to augment their part-time department should have risk assessments done to determine what would be the appropriate level of protection and how best to achieve it without relying on somebody else's firefighters. We would then advocate a timely period to institute this type of arrangement.

I'd like to thank you for allowing me to appear before you and I'd be pleased to answer any questions you might have.

1730

The Chair: Thank you, Mr Newman. If the committee so wishes, a couple of minutes of questions for all three parties.

Mr Michael Gravelle (Thunder Bay-Superior North): Mr Newman and Mr Gorrie, welcome. I've been trying to catch as much of the session as I could this afternoon. You appear to be the first group that has actually expressed some concerns about the bill in a very specific way. I do think the concerns you expressed are important ones and I hope that Mr Arnott and the committee members are conscious of that.

The issue of choice has been made. I think the point needs to be understood, and I know you've been able to make the point, that when one talks about a full-time person in a job going to part-time work, you often don't have the issue related to something as obviously sensitive and dangerous as firefighting.

You've also made reference to the fact that this could be done in a different fashion. I've spoken to Mr Gorrie about this previously, and there was some concern when the bill came forward that you felt this was an issue that could be dealt with outside the Legislature, and there was a process in place to try and work this through. Do you still feel that way?

Mr Ron Gorrie: Definitely. I believe that through a negotiated settlement process we can resolve this. We proposed to the discussion with stakeholders a process of the phasing out of two-hatters, to do it with the minimal effect possible on any municipal fire department relying on that type of service.

Mr Gravelle: The concerns you have expressed in your presentation particularly in terms of liability, in terms of a firefighter being in a situation, either in his part-time capacity or full-time capacity, and being able to work at 100%: have you had an opportunity to express them again outside this process? Have you been able to deal with Mr Arnott in the preparation of this legislation? Clearly, those are real concerns, and I would think all those who are in favour of the bill must also acknowledge those concerns in terms of the fact that if you've got somebody who's been involved in a great deal of work, either in their part-time position or their full-time one, they're not necessarily going to be at 100% capability of doing it. Have you had a chance to discuss that with others?

Mr Gorrie: I never talked directly with Mr Arnott on a case or on the situation, but it would be our position that there is a distinction between working part-time as a volunteer firefighter and part-time, as somebody has alluded to before us, as a truck driver. When you're working part-time as a truck driver, if you're feeling tired or worn out to the point that you might jeopardize your employment as a career firefighter, you always have the option to say, "That's it. Thank you very much. I'm going home for the day," whereas if you're a volunteer firefighter and you're at the scene of a fire, I'm sure the chief of the volunteer fire department would expect his volunteer, whether he be a two-hatter or not, to stay at the scene of the fire until the fire is sufficiently under control that he can be released. Therefore, that volunteer firefighter has no control about the extent of work and exhaustion he may incur. Then he would be expected, of course, ultimately by his full-time fire chief and employer and the taxpayer to go to work to earn the salary he's earning there. His alternative would be to book off sick and therefore take advantage of a benefit earned by his union for sick pay, and then cause extra expense to his full-time employer and the taxpayer.

Mr Levac: Just a very quick question: is your organization out to get rid of volunteer firefighters?

Mr Newman: No, sir, we're not. It has never been the position of our associations to attack volunteer firefighters. They provide a service where that service is needed, and we've never questioned that.

Mr Kormos: It's been very frustrating, because we don't have any hard data, for instance, on the number of double-hatters. So that's frustrating. You saw me in here trying to get some sense of who's hosting these professional firefighters as employees and who's using them as volunteers. Yet the Hamilton scenario is somewhat unique because you've got the megacity, the amalgamation of the smaller towns.

The history of article XV in the IAFF constitution: how long has that article been a part of that constitution?

Mr Gorrie: Living memory, I believe, Mr Kormos and Mr Chair. It's been there since I can remember.

Mr Kormos: You're almost as old as I am, so—

Mr Gorrie: Almost.

Mr Kormos: Has this ever been the subject matter of a—I trust that over the course of your years as a professional firefighter you've been to the conventions, both national and international.

Mr Gorrie: Again, if I understand the question—

Mr Kormos: The question is, has this ever been a matter raised on the floor by the membership, to change the constitution? Has it ever been debated by the membership?

Mr Gorrie: Yes, it's been debated to a great extent, as I understand it, at the provincial level and at the international level. I'll just speak to the provincial level and I'll allow Mr Newman to talk about the international level.

It was debated, as you've heard before, in 1998, 1999, whatever it was, in order to actually bring part-timers into our association and it was defeated by the majority of elected representatives at convention to change the constitution to allow that. So yes, it was discussed and, in the fairest way possible, defeated.

Mr Kormos: It was put to a vote on the floor of the convention?

Mr Gorrie: Exactly.

Mr Newman: With respect to the international situation, two years ago in Chicago, the issue came up repeatedly during the first several days of the convention, and it was believed that the issue was at that time decidedly a Canadian issue and it was left to the Canadian locals to deal with. The spectre at that point was that, because of all the amalgamations, we would be put in the position, because of legislation, of having to represent part-time employees. Technically, under the terms of the international constitution, we are not allowed to do that. There is a process by which special dispensation can be requested from the general president to represent part-timers, particularly in light of the fact that it was legislated.

But as far as the American segment of that convention, they did not for themselves seem to think it was that much of a problem and they referred the repeated raising of the issue back to the Canadian locals.

Mr Kormos: Again, I'm going back to Whitby, a small local, 86 members, as I read the information, that has launched at least one case against one of its members pursuant to article XV. I'm just interested in the fact that firefighters, being as tight a brotherhood and sisterhood as they are—the existence of article XV doesn't appear to be a matter of great concern by the vast majority of professional firefighters. I don't know whether that's an accurate observation or not.

Mr Gorrie: Again, the existence of article XV has been endorsed by the international convention that Mr Newman was referring to, and the problem was dealt back to the Canadian caucus about what to do if in fact, through amalgamations and through legislation and through labour relations board decisions, part-time employees are put into the bargaining unit. That was the question that was being debated. It was not the question of the validity of performing a two-hatter function, if you will. That was not the question. It was, can we represent part-time people, not our own members, doing two functions? Just so the committee is aware, the international was not ever in doubt about a full-time professional firefighter also being a volunteer firefighter. That was never the question. It was a question of, can we represent part-time firefighters if forced to do so by a decision of the Legislature or a statute? That was the issue of debate.

Mr Kormos: How much is Bill 84 responsible for this matter becoming as contentious as it has become?

Mr Gorrie: Almost completely.

Mr Newman: Solely.

Mr Kormos: I want you to understand I didn't vote for it.

Mr Arnott: Thank you very much for coming all the way from Thunder Bay to make your views known in this process. I want you to know that I have the highest respect and regard for all our firefighters, but I would respectfully submit that in this instance the Ontario Professional Fire Fighters Association is going too far with these kinds of charges and that's why I brought this bill forward. I know you have a different perspective, but I certainly respect your right to come to this committee and express your views. It's something that I thought was important. I didn't want to stand in the way, certainly, of people who had a divergent point of view other than my own. I didn't want them to be denied an opportunity to come forward at a legislative committee and express their views. I'm looking forward to reviewing the Hansard and thinking over more so some of the points you've made because I think you've made a number of important points.

In response to Mr Levac's concluding question—he asked you whether it is your association's view that volunteer firefighters should be phased out—you said no, that it's not your position volunteer firefighters should be phased out. But it is your position, am I not correct, that double-hatters should be phased out?

Mr Gorrie: Exactly, no doubt about it. We feel that full-time career firefighters who act as double-hatters are doing an injustice to the rest of us career firefighters. It's much more difficult to negotiate, it's harder to maintain salary levels, it's hard to justify, if you will—Mr Gall was talking about Flamborough, Stoney Creek and Hamilton. It was very difficult for the firefighters in Stoney Creek to continue to exist for years because Flamborough was a purely volunteer fire department. Municipal councils talk, and they say, "My volunteer fire department costs me $10 and your full-time fire department costs me $20." There was always a difficulty for the full-time firefighters in Stoney Creek.

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There has never been a time when I personally, or my association in Thunder Bay, of which I'm proud to be the

president, ever advocated getting rid of volunteer firefighters. We know that in the towns of Emo, Atikokan, Terrace Bay and Marathon, basically they're not going to do it, my friend. Right next door to us in Shuniah, Neebing, Dorion, Murillo, Kakabeka Falls and Kaministikwia, they're not going to have full-time professional firefighters for a thousand years. I don't say we've got to get rid of them. I say bring them on, let's train them, let's make sure they're doing a good job, let's protect them, let's help them.

But, sir, do I believe that double-hatters should be eliminated? Obviously I do.

Mr Arnott: We disagree on that point.

Mr Gorrie: You talked about the right to come before the committee, and I certainly appreciate that right being exercised. We've heard about rights of people for freedom of association and freedom of employment, but we'd just suggest to the committee to consider that, as a municipal employee, I am forbidden to sit in this House, I am forbidden to sit on municipal council and I am forbidden to run for federal Parliament. Why? Because I'm a municipal employee. So my freedoms are impinged upon just by being that. You, sir, Mr Chairman and members, are forbidden to sit on municipal council and you're forbidden to sit in the federal Legislature. Why? Because you happen to be here.

In every day of our life, we know that our rights to associate, our rights to employment and our rights to do as we want, to represent our people, are limited. Mr Newman, my first vice-president, as Mr Gravelle will probably attest to you, chaired the United Way campaign in Thunder Bay. He was a deputy chair of the United Way. He's run more functions for the firefighters association at Thunder Bay to benefit the community in fundraising than anybody I know of. He helps his community. He's loyal to his community.

Mr Guzzo: As a volunteer.

Mr Gorrie: Not as a volunteer firefighter, sir; as a volunteer. We advocate volunteerism. If you want to be a volunteer, by all means, but don't, please, violate the constitution, as a career firefighter, the oath that you took, and then also be a volunteer firefighter.

Mr Guzzo: You can run your own construction company in your off-hours, but don't volunteer.

Mr Gorrie: If you will, yes. We have no problem with that. In many other professions, if you're a painter, you can't paint under scale. If you're an electrician, they'll pull your ticket if you're working under scale. We're no different than any other trade union.

The Chair: Thank you, Mr Gorrie and Mr Newman. On behalf of the committee, we appreciate your coming down from Thunder Bay.

TIMOTHY LEE

The Chair: The next individual is Mr Tim Lee. Individuals are allocated 10 minutes, as opposed to an organization.

Mr Kormos: Mr Chair, while Mr Lee is being seated, perhaps this is a good time to let these folks know that people from out of town can submit to the Chair requests for mileage for travel to Toronto. It's a practice the committee has, but sometimes the committee doesn't like telling people about the practice, and then people find out about it too late. I know there are folks who have come here from some significant distances, and even not so long. I'm encouraging them to submit mileage slips and any other incidental expenses. They will be thoroughly scrutinized. No movie titles will be blacked out.

The Chair: Thank you, Mr Kormos. That is subject to the approval of the committee. Mr Lee.

Mr Timothy Lee: I am honoured to stand, or sit before you, in this case, today to address a critical issue that threatens the freedoms and rights of firefighters and the safety of Ontario citizens.

Eight years ago, I started my career as a volunteer firefighter, and it has been my privilege to have also served as a career firefighter for the last six years, first with the city of Mississauga and now with the town of Whitby, which is closer to my home, the city of Kawartha Lakes, where I continue to volunteer. I am called a double-hatter, one of hundreds, if not possibly thousands, of professional career firefighters in Ontario who voluntarily make their services available in their own communities while they are on their time off from their full-time jobs.

The International Association of Fire Fighters, or IAFF for short, has charged me for refusing to stop volunteering in my home community. Three additional charges have also been laid against me for my support of Hamilton firefighters finding themselves in similar circumstances. If Bill 30 does not pass, I and others like me who have been charged and threatened with charges stand to lose our jobs. My case will set a precedent for the IAFF. What happens to me will establish their course.

We in Ontario are being carefully watched, as this response to Bill 30 will determine whether or not the IAFF moves full steam ahead in other provinces and, indeed, across the States. While the Canadian director of the IAFF claims this is simply a low-level regulation process of internal union affairs that should be left to the union, what they are actually doing is trying to affect changes to social policy and affect the general public by exploiting loopholes in provincial legislation.

The determination of the rights of citizens cannot be left in the hands of unions. That is why all other workers in Ontario have protection from unfair labour practices within the Labour Relations Act.

I had two grandfathers who fought in World War II, and a great-grandfather who fought in the First World War. I come to encourage you to honour and uphold the fundamental freedoms they valued above their lives. To ensure these freedoms for firefighters, it is critical that Bill 30 must be passed into law.

In their efforts to bolster their position, the IAFF has made a number of faulty claims.

Faulty claim number one is that firefighters can become exhausted through volunteering and be less effective in their full-time work, endangering the public

and their colleagues. In truth, if that were really an issue, firefighters would have to avoid any strenuous work or sports on their time off. Obviously, safety cannot be the true motivator for the IAFF's concerns, otherwise they would ban their members from engaging in any activity that could be deemed hazardous or taxing. The practice of double-hatting has never been identified as being a public threat by the office of the fire marshal. In fact, the only potential threat identified by the office of the fire marshal is the withdrawal of their services.

Faulty claim number two is that double-hatters masquerade as volunteers, when they're really paid workers. The concept of volunteerism, I submit, has evolved into a concept of work without pay. In fact, according to Webster's dictionary, it refers to "one who enters any service of his own free will"; that is, without being conscripted. Taking a page from the military, both volunteers and conscripted soldiers are fully paid. Webster's also defines "free" as being "without charge." Volunteers are not free. They are highly skilled professionals requiring continuous training and expensive equipment who willingly engage in activities necessary for the protection of their community.

While it is true that volunteers receive a token hourly wage when they respond to calls, that is not the motivation for their service. In my case, the remuneration usually doesn't amount to much more than about $150 a month, obviously not the huge incentive for putting my life on the line that some would have you believe.

Faulty claim number three is that double-hatting decreases public safety. Without professional volunteers who are available to answer calls during the daytime, when other volunteers are at work, daytime emergencies will not have the necessary response. Double-hatting actually increases public safety.

Faulty claim number four is that double-hatting increases exposure to cancer-causing agents. There are many jobs that could expose a worker to cancer-causing agents or a variety of other, more immediately dangerous situations. That is why all workers, including firefighters, must follow occupational health and safety guidelines.

Faulty claim number five is that all IAFF members have sworn an oath to the IAFF and that they are just asking them to keep their word. In reality, I and many other firefighters have never sworn such an oath. Before December 8, 2001, I had never been given a copy of, or for that matter the opportunity to look over, the IAFF constitution and bylaws. I did make sure my employer was well aware of my volunteer experience prior to being hired. I was never told by my employer about the anti-volunteer clause in the IAFF constitution and bylaws, nor was I ever asked to discontinue my volunteer activities. It actually helped me get the job.

1750

The support for Bill 30 has been tremendous. Beyond the support you have seen here are evidences like a petition with over 4,300 signatures from my own rural community and wide newspaper coverage in our support in other Canadian provinces and throughout the United States, as well as locally. The bottom line is, what will happen in Ontario if this bill does not become law? The consequences of Bill 30 not being passed, I feel, are dire.

Consequence number one is that double-hatter firefighters will have to choose between giving up their full-time jobs or giving up their volunteer service to their communities. Unlike all other unionized workers in Ontario, who have the protections from unfair labour practices found in the Labour Relations Act, firefighters have no statutory protection from the union charges. If my union card is revoked, the union will be able to request that my employer terminate my employment.

The following remarks were made by Justice Grange of the High Court of Justice in Ontario. He said, "It is difficult to understand why firefighters, almost alone among unionized workers, should be excluded from relief against arbitrary conduct of their union." You can imagine the stress and uncertainty that I face in providing a future for my wife and three young children, aged 12, 11 and nine. Nevertheless, I cannot lead my children into adulthood with the example of one who compromises his freedom and principles for job security.

Consequence number two is that the financial and legal implications for municipalities are staggering. Volunteer firefighters provide a billion-dollar resource to Ontario every year. Besides the necessary tax hikes to cover the costs, the implications to levels of service, public safety and insurance liabilities are unthinkable if a phase-out of double-hatters is imposed on municipalities and the citizens of Ontario by the IAFF. In the absence of the protection proposed by Bill 30, many municipalities will find themselves caught between not only conflicting provincial laws and liabilities but also in conflict with federal constitutional rights issues. Although the IAFF is not subject to the application of the Charter of Rights and Freedoms, municipalities are.

Consequence number three is that the safety of rural Ontario will be compromised. We will forever lose the decades-long benefit of full-time, highly trained firefighters who choose to benefit their communities with their skills and experience on their time off, both in training and protection services.

In a society where there are ever-increasing demands on families and further commutes are required to get to work, staffing of volunteer fire stations has become a real challenge. Meeting this challenge has been possible in part because of the contribution that double-hatters make. If double-hatters are forced to quit, the reality is that small communities that cannot afford to hire full-time firefighters would simply be left without effective services, thereby creating animosity towards the union but a very real public safety crisis.

Consequence number four is that bullying will be legitimized. The IAFF has chosen to continue, as I speak, the campaign against double-hatting members in spite of community concerns. Well over 60 double-hatters have been lost already due to union pressure tactics known as fire hall justice. Many of them have shared their stories

with me. I am not immune to their concerns, particularly in sitting before this committee today.

In summary, while the interests of the working man have historically been protected by the union, unfortunately the opposite is true in this situation. I believe that the movement of the IAFF towards a self-serving agenda must be reversed back to that of serving the community. The Honourable Robert Runciman, who is the Minister of Public Safety and Security, recently recognized firefighters as "part of that dedicated, reliable core of individuals within each community that allow all of us to feel safer and more secure." He went on to say, "They place their lives at risk every day, ensuring people's safety." I hope that we as firefighters will be allowed the same security and feeling of safety in our employment.

In closing, working to protect the rights and freedoms guaranteed to all Canadians is not always easy or popular with everyone, but it is right. The foundation of Bill 30 is built on common ground where partisan politics can be temporarily put aside in the interests of working together to benefit Ontario. I respectfully ask all political parties to unanimously put your support behind Bill 30 and the vigilant firefighters who serve and protect your communities. Thank you.

Any questions?

The Chair: Thank you, Mr Lee. That's 10 minutes right on the button. We appreciate very much your presentation.

Mr Kormos: That will give us enough time to get back in on the vote against the government's time allocation.

The Chair: This committee will reconvene on Monday.

The committee adjourned at 1755.

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Third Session, 37th Parliament

Assemblée législative
de l'Ontario

Troisième session, 37e législature

Official Report of Debates (Hansard)

Monday 21 October 2002

Journal des débats (Hansard)

Lundi 21 octobre 2002

Standing committee on justice and social policy

Comité permanent de la justice et des affaires sociales

Volunteer Firefighters
Employment
Protection Act, 2002

Loi de 2002 sur la protection
de l'emploi des pompiers
volontaires

Chair: Toby Barrett
Clerk: Susan Sourial

Président : Toby Barrett
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON JUSTICE AND SOCIAL POLICY

Monday 21 October 2002

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE ET DES AFFAIRES SOCIALES

Lundi 21 octobre 2002

The committee met at 1600 in room 151.

VOLUNTEER FIREFIGHTERS EMPLOYMENT PROTECTION ACT, 2002

LOI DE 2002 SUR LA PROTECTION DE L'EMPLOI DES POMPIERS VOLONTAIRES

Consideration of Bill 30, An Act to amend the Fire Protection and Prevention Act, 1997 in order to protect the employment of volunteer firefighters / Projet de loi 30, Loi modifiant la Loi de 1997 sur la prévention et la protection contre l'incendie afin de protéger l'emploi des pompiers volontaires.

The Chair (Mr Toby Barrett): I wish to welcome everyone here this afternoon. This is the regular meeting of the standing committee on justice and social policy for Monday, October 21. We are receiving delegates this afternoon for public hearings on Bill 30, An Act to amend the Fire Protection and Prevention Act, 1997 in order to protect the employment of volunteer firefighters.

Before I commence with delegations, I have a question for committee members. The subcommittee did not set a deadline for amendments. What is the wish of the members? Do we wish to set a deadline?

Mr Peter Kormos (Niagara Centre): May I move that no deadline be set. We'll be doing clause-by-clause tomorrow, as I understand it.

Mr Dave Levac (Brant): I don't have a problem with that, Mr Chairman.

The Chair: All right. That will remain as reported by the subcommittee.

CHRISTIAN LABOUR ASSOCIATION OF CANADA

GREATER HAMILTON VOLUNTEER FIREFIGHTERS ASSOCIATION

The Chair: I would ask the Christian Labour Association of Canada to approach the witness table, please.

I would ask for your name, sir. You have 15 minutes, and you may wish to leave a bit of time if committee members would like to comment or ask questions.

Mr Ian DeWaard: Thank you for the opportunity to make this presentation today. My name is Ian DeWaard. I'm a representative of the Christian Labour Association of Canada. The CLAC is an independent, multi-craft trade union that represents roughly 28,000 members across the country.

In May 2000, the Ontario Labour Relations Board certified the volunteer firefighters in the city of Hamilton as a trade union. In September of this year, that group, the Greater Hamilton Volunteer Firefighters Association, voted to affiliate with the CLAC. I'm here today, on behalf of that association and the 300 members it represents, to speak to an issue that greatly affects them and the more than 17,000 volunteer firefighters in the province.

I'd like to commend the efforts of the honourable Mr Ted Arnott and the Legislature for considering the bold steps outlined in Bill 30. As an independent union that takes its lead from Christian social principles such as fairness, dignity and justice, the CLAC supports the direction Bill 30 takes to protect the rights of both full-time and volunteer firefighters.

This bill will in essence prevent the trade union from disciplining its members who serve as volunteer firefighters in their free time. That is because a certain union is attempting to discipline its members on the grounds that their volunteer status is a form of misconduct, regardless of the detrimental effect to the volunteer stations throughout the province and the municipalities that rely on two-hatters.

The amendments contained within Bill 30 are something the labour movement as a whole would generally find too intrusive. Even the Ontario Labour Relations Board itself would not normally get involved with the internal operation of a trade union or its membership policies. However, the IAFF in this situation operates under a different legislative regime than a typical trade union in Ontario and is therefore not subject to the provisions in the Ontario Labour Relations Act that protect the individual rights of union members from the collective interests of a trade union. Trade unions, like employers, must be held accountable to the people over whose lives they hold significant influence.

In the view of the CLAC, governments and trade unions should both be working to protect the freedom of members; in this case, specifically the rights of two-hatters. The government's role in labour legislation is also to work as an umpire. Therefore, where a trade union fails to protect the rights of workers to work and to

freely associate or not associate, the government must step in and restore the balance.

Some argue that in the case of two-hatters, government should not interfere with agreements that have been achieved through the bargaining process. They will argue that the only result of the government's interference in these agreements will be substantial litigation. This argument is seriously flawed. It is true in some cases that municipal governments, in the wake of municipal amalgamations, have agreed to enforce the union's demands that full-time firefighters permanently turn in their volunteer pagers and gear. However, when municipal governments are expected to relinquish the right to determine their volunteer selection policies or force volunteers to resign their positions within the volunteer force, it is more likely that we will see legal challenges based on freedom of association rather than complaints based on this Legislature's interference.

The IAFF's two-hatter policy is one that comes from the IAFF constitution and not from collective bargaining. This is not an arrangement that has been reached through the process of fair bargaining but rather is an arbitrary internal union rule. The fact that some municipal governments have complied with the IAFF's demands does not make this policy right. No union has the right to act as though it owns its members. The IAFF has abused its responsibility to represent the interests of its members through the sanctions imposed on two-hatters, the result of which is the bill before you today.

Practically speaking, this no-volunteer policy is a lose-lose situation. First, it will have an adverse effect on community safety, and second, it is bad business. By preventing full-time firefighters from serving as volunteers in the communities where they reside, the IAFF is depriving these mostly rural areas of the expertise and leadership that professional full-time firefighters provide to volunteer stations. Volunteer firefighters are members, contributors and benefactors of the communities in which they live. New volunteers undergo over 100 hours of rigorous preparatory training before responding to their first call. Often, the training and experience gained as a volunteer is helpful in acquiring full-time employment as a firefighter. In return, many full-time firefighters desire to give back to the communities where the got their start by offering their skills and their free time.

Volunteer stations have relied on the skills and training brought by full-time firefighters for decades. If an association is permitted to put a stop to this practice, volunteer stations will be forced to find new volunteers to fill the void created by the loss of trained and capable manpower. The training costs could be potentially devastating on small communities and newly amalgamated municipalities, and the immediate loss of expertise should not be underestimated.

The IAFF would have you believe that two-hatters endanger the health and safety of their co-workers and the public at large. They say that firefighters working in both capacities will be too exhausted to properly ensure the safety of those around them. Quite frankly, if this were indeed a legitimate concern, the association would prevent its members from doing any strenuous activity in their off hours. Obviously, this is not the case. Full-time firefighters can be found in their off hours working part-time jobs, running their own businesses or playing on the local soccer team. It would be preposterous of any member-based organization in this country to rule the lives of its members in this fashion. How, then, can this association legitimately dictate activities in which its members may or may not participate?

The two-hatter issue is not new. The IAFF's constitution has always restricted its members from serving as volunteer firefighters. Until now, the union has failed to ever enforce this provision in its constitution. Some of its representatives have gone as far as to say that the province should completely do away with volunteer firefighters. The issue boils down to money and control. Volunteer firefighters do not pay dues to the IAFF. Volunteers, in the eyes of the IAFF, take away potential full-time jobs. Quite simply, this is a transparent attempt by the association to increase its number of dues-paying members.

Because of the recent municipal amalgamations across the province, full-time firefighters who also volunteer in neighbouring municipalities are now in the jurisdiction of a new and commonly managed corporate umbrella. Critics of Bill 30 characterize this situation as a conflict of interest or moonlighting, or both. Neither is accurate. The business of emergency response is not a competitive market. This bill will prevent public safety from being held victim to the association's agenda.

This committee needs to be aware that the two-hatter issue goes deeper than the three small paragraphs contained in Bill 30. Bill 30 has more serious implications than what appear on its face. The association will force its members to choose between their full-time employment and their community service. Likewise, when the IAFF enforces its no-volunteer policy, they force those municipal governments to decide who possesses the greater legal and/or economic threat: the IAFF or the volunteers. The answer, unfortunately, is simple. The municipalities that rely on volunteer firefighters will lose the two-hatters and will experience unnecessary hardships and loss of manpower. This could very well threaten the viability of some volunteer stations.

In closing, the CLAC wishes to encourage this committee to take the steps necessary to ensure justice, fairness and equity for the men and women we rely on to provide our rural communities with fire and emergency response services. We encourage you to continue on the course that has been set in motion by Bill 30 and to report to the Legislature on the need for this amendment to the Fire Protection and Prevention Act, 1997.

The Chair: Thank you, Mr DeWaard. We have about five minutes for comments. I'll start with the Liberal Party. We can go in rotation and see how that works.

Mr Levac: Thanks very much for your presentation. Throughout your presentation, you use words such as "abused" and "arbitrary" and that critics are making one

or two assumptions. Are you aware of other ways in which there have been criticisms of the bill?

Mr DeWaard: Some of the criticisms of which I'm aware are the potential challenges that may arise with respect to enforcement—how a trade union may or may not discipline its members. I'm not qualified to speak to how that could potentially be amended or made even better. At this time, I am able and willing to support in general the concept of protecting the status of volunteer firefighters.

Mr Levac: Are you also aware that some volunteer fire services are speaking out against the argument that we are losing expertise and leadership, that some volunteer services actually take offence at the fact that some of the support for Bill 30 is being provided by challenging the assumption that they can't provide that expertise and leadership, and some of them are actually quite offended by that?

Mr DeWaard: I'm not familiar with that side of the argument. My experience to date has been, as I've said, with the Greater Hamilton Volunteer Firefighters Association, and my understanding is that at one time up to 25% of the membership were working as two-hatters, and that issue hasn't been raised as a concern, that they're offended by this line of argument.

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Mr Levac: OK. I'll pass it to my colleagues, if they have any.

The Chair: Any further comments? If not, I'll go to Mr Kormos. We have a couple of minutes.

Mr Kormos: I read your submission along with your putting it on the record. Look, I take it at face value. But like everybody in the room, I'm a taxpayer too. We all are. I agree with you about the incredible contribution that professional firefighters can make to a volunteer service. Nobody can quarrel with that. But as a taxpayer, shouldn't I be concerned about the fact that down where I come from, I'm prepared to finance the training of our professional firefighters, and then a neighbouring community may be able to take advantage of that training, and they aren't kicking anything into the kitty?

I accept your argument that they are a very valuable tool and reduce the cost to communities that employ them as volunteers, but I'm wondering, from my position as a taxpayer, I'm wondering from the position of Torontonians, who invest a lot of money—maybe not enough; I'd argue they should be investing more in firefighting services—but why shouldn't we resent the communities utilizing these professionals and not picking up, oh, let's say 20% of the cost of training them? Where is the fairness there?

Mr DeWaard: Sure. And with all due respect, the full-time associations have often relied on the training that the volunteers have received within their municipalities or rural communities. The training is fairly rigorous as a volunteer as well, and the full-time associations have always been able to rely on that. Their hiring policies, I would think, and I know it to be true in some cases—they look first to the volunteer forces in the local areas and say, "Can we draw on that resource?"

Mr Kormos: I suppose that's the other problem I have, because down where I come from—you're right—young women and men who aspire to be firefighters utilize the volunteer forces, which are becoming limited in numbers, because we've got city councils who are saying, "No. We've got to reduce our number of volunteers" because they can't afford to sustain them. So many young people whom I know, good folks, use the volunteer as hopefully an entry point into full-time firefighting services, whether they apply up in Peel, in the big expanding areas or even locally. Some of them have expressed concern to me, saying, "Hey. There's limited spaces in the volunteers," let's say in a hybrid community like mine; "Jeez, give me a chance at developing some firefighting skills. The full-timer, the professional firefighter, has already got a firefighting job. I'd like one too." Again, I'm wondering about the concerns those people express, saying, "I'm being squeezed out of a slot because here's a person who's already a full-time firefighter who's occupying a scarce volunteer spot." Again, that's just one of the dilemmas, I suppose.

Mr DeWaard: Sure. As a matter of fairness, I don't believe that the full-time force restricts its hiring practices to the volunteer forces. There are other ways in which other people can get in. And maybe that's a legitimate argument; I'm not sure. I'm not familiar enough with their hiring practices to speak to the fairness of that.

Mr Kormos: But do you understand the dilemma I'm speaking about?

Mr DeWaard: Yes.

Mr Kormos: I'm on the waiting list to join a small volunteer company that's being compressed in the number of volunteers because the city says we can't afford to maintain the large complement that we had. And I'm saying, "Hey, I'm on a waiting list, and there's one firefighter, two firefighters who have already got their full-time jobs. I want a kick at the can."

Mr DeWaard: I understand the dilemma, yes.

The Chair: Thank you, Mr Kormos.

Mr Kormos: Thank you, sir.

The Chair: On behalf of the committee, I wish to thank the Christian Labour Association of Canada. Thank you for your presentation.

Mr DeWaard: Thank you, sir.

ONTARIO ASSOCIATION OF FIRE CHIEFS

The Chair: I wish to call forward the next delegation, the Ontario Association of Fire Chiefs. Good afternoon, gentlemen. We'd ask for your names. We have 15 minutes. You may want to leave some time for questions.

Mr Milt Wilson: Thank you, Mr Chair, and honourable members. I'm Milt Wilson. I'm the president of the Ontario Association of Fire Chiefs and I'm also the fire chief in Oshawa. With me is Doug Tennant, who is the

first vice-president of the Ontario Association of Fire Chiefs and also the fire chief in Severn.

The Ontario Association of Fire Chiefs appreciates the opportunity to provide our organization's comments regarding the two-hatter issue and Bill 30.

The Ontario Association of Fire Chiefs represents the full-time, composite and volunteer administrative levels of the Ontario fire service from a fire protection and prevention/education management perspective. Currently, the OAFC has approximately 600 members representing over 400 fire service organizations across the province. The membership is comprised of full-time departments protecting 55% of Ontario's population; composite fire departments, which is a combination of full-time and volunteers, protecting approximately 30%; and volunteer fire departments representing approximately 15% of the population.

The OAFC is directed by its membership through a resolution process which takes place at our annual conference. The OAFC has been directed by a resolution of our membership to examine all aspects of the two-hatter issue and report back to our membership. A copy of that resolution is in our handout. It's also in your information package from an internal handout.

The OAFC has been participating in a process with the Ontario fire marshal to identify all of the issues through a discussion paper and attempt to bring all of the stakeholders together to formulate a solution to this situation. Unfortunately many issues, such as the provincial strike, resulted in the final process being incomplete at the time of the OAFC conference in April 2002. Bill 30 was subsequent to our conference, so it was passed after. At this point in time, the fire marshal has met and organized a meeting with the Ontario Association of Fire Chiefs, the OPFFA, the volunteers' association and AMO. The basic principle in any discussions that the OAFC has been involved in began with the premise that public safety must not be compromised.

The IAFF two-hatter issue is not a new situation. It has surfaced many times over the past years. For the most part, it has been a "don't ask and don't tell" situation. The firefighter associations have not been aggressive in demanding that the IAFF constitution be followed to the letter. Fire chiefs, municipal managers and the full-time firefighters working as part-time firefighters have been aware of these IAFF constitutional restrictions because it has arisen before. But there has not been a point in the past where the issue became such a serious problem that it required associations, municipalities or the province to demand legislative action to protect a firefighter's right to work. The amalgamation of several large cities and the dramatic growth of former rural communities surrounding the large urban mega-cities has been the main catalyst for the current situation.

As directed by our membership, the OAFC has attempted to encourage and participate in a process with all stakeholders to identify a non-legislative solution to this issue because of the significant legal complications that may arise if legislated restrictions are imposed on long-standing firefighters associations' constitutions and also under collective agreement wordings.

The Ontario fire marshal's discussion paper on two-hatters identifies many of the issues and offers some suggestion to move forward on this problem. The Ontario fire marshal had organized a meeting of the groups in August where each stakeholder brought forward their position. At that meeting it was clear that the firefighters' associations were restricted in their options by the wording in their constitution. AMO stated that it was unclear that any of the parties in the room had the right to negotiate on behalf of the affected communities. Since that time the stakeholders have solidified their positions.

AMO encourages the passing of Bill 30 with amendments. The volunteers' association, the FFAO, have presented the same suggestion, also with amendments for the bill. Position papers from the OPFFA and the recent lifting of the moratorium letter of October 1 make it clear that the only option for them is the eventual phasing out of all two-hatters to meet their constitutional mandate. However, the fire service, both full-time and part-time, will still be left in the same position as before, where an individual firefighter association member could charge a brother firefighter who is two-hatting. Without the agreement of all stakeholders and the assurance that a firefighter's right to fair representation is achieved, it is not possible to implement the phasing-out process that we had originally tried to discuss.

As stated in our Ontario Association of Fire Chiefs letter of June 12, the OAFC supports the right-to-work intent of Bill 30 but is concerned with the legal ramifications of the wording. Bill 30 is a legislative solution to the two-hatter situation that has been introduced in isolation of broad stakeholder input. Legislation of this type should not be taken lightly. There must be a full understanding of the positive and negative ramifications of the bill. To my knowledge, there has been no professional consultation or investigative process to provide the background and sound reasoning for the wording in the legislation.

While the OAFC understands the well-intended reasons for the introduction of Bill 30, our organization believes that in its present form it may not serve the purpose of minimizing the impact on public safety that is envisioned by some of its supporters. I am sure that the OPFFA, when they make their presentation today, will tell you of some of the ramifications of Bill 30. They will range from legal challenges at the provincial and municipal level to increased peer pressure on firefighters in other communities. We emphasize that this peer pressure in the tightly knit firefighter community is a very real thing that will happen.

While we have no extensive documentation, we are sure that the OPFFA letter lifting the moratorium on laying charges will have a further negative impact on firefighters and the ability of some communities to maintain the expertise in training and leadership they now have through the use of experienced firefighters who live in their communities. In some cases, the removal of these key members could affect public safety.

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The OAFC is also very concerned that a further alienation of relations between full-time firefighters and part-time firefighters could have a detrimental effect on the numerous successful mutual aid systems that are now in service and have been developed over the years through the OFM fire coordinator system.

I just want to briefly touch on the OAFC concerns with Bill 30 wording. As well as the public safety aspect of this situation, the right-to-work wording in the bill has become the focus of concern. However, stating that, we also realize that this is a situation that has been around for many years, and any attempt to legislate away long-standing labour constitutional provisions and negotiated collective agreement wording without very clear legal wording will produce serious legal challenges.

The wording in the bill restricts a local bargaining unit from using their freely negotiated or arbitrated collective bargaining unit provisions to enforce rules against their own members. The OAFC does not advocate that the firefighters' associations cannot formulate their own rules to manage their organizations and members. These rules were negotiated under the fair bargaining practices of the province. This part of the bill could be challenged through the Charter of Rights and be tied up in the courts for many years. Amending the bill to minimize the effect on collective agreement rights to discipline their members is necessary.

The local firefighters' associations also will be compelled to challenge the legislation at the municipal level to enforce the wording in their collective agreements until that wording is changed through negotiations or arbitration proceedings, which is a very long-range plan.

If a firefighter's union card is withdrawn and they are no longer a member of the bargaining unit, then the local union shop and contracting-out clauses will come into play.

Is provincial legislation binding? Can collective agreements override provincial legislation? There have been a number of cases were the intent of the FPPA exclusion process and automatic aid provisions have been successfully nullified by local contracting-out clauses. This same thing can happen with the wording in Bill 30 if it is not legally clear.

These challenges will lead to extensive litigation costs for the province and some municipalities that are affected, with no assurance of a positive outcome. There must be enabling wording in the bill to ensure, even though a firefighter is disciplined and has his union card revoked, that they can still work as a firefighter.

The OAFC also supports the principle that there should not be an attempt to intrude on collective agreements where there is an issue with full-time firefighters working as volunteers in the same community. In these circumstances, the collective agreement wording should be followed until changes are made through local negotiations.

The OAFC is also concerned that the term "volunteer" that is used in the bill could become a costly legal point. The issue of the meaning of this wording in the FPPA, as it relates to the definition of "volunteer" versus "part-time," has been before the labour board with more than one opinion as the outcome. During deliberations on this bill a new phrase, "paid on-call firefighters," has emerged. Wording must be crafted to ensure it is clear whom this legislation affects.

The OAFC had been directed by its membership to form a task force to review all aspects of this issue. The association has attempted to play a part in this process, and there were discussions about a phase-out program and negotiations to solve the problem.

With the positions that have been taken by the stakeholders, and the lifting of the moratorium on charging union members, it is now clear that the parties cannot come to a non-legislated solution to this issue. Because there appears to be no way to change the IAFF constitution, it is necessary for the government to come to a decision on the right of fair representation for firefighters, which is similar to the protection enjoyed by other workers in the province. The OAFC does not believe that the firefighters in Ontario should have fewer rights than other workers.

This is a very emotionally charged and complicated issue. There is no single, easy answer. Even the government's own research and information services handout on the volunteer firefighters' employment issues points out that the laws in other jurisdictions and the Ontario Labour Relations Act are not completely clear on the issue of double-hatting.

In summary, the OAFC has attempted to meet the intent of our resolution through discussions with the other stakeholders. Unless there is an agreement by all stakeholders and a change to the IAFF constitution, phasing-out of two-hatters is not a supportable solution. The OAFC supports the right to fair representation for Ontario's firefighters. The wording in any bill that allows this to happen must be clear to minimize the legal ramifications.

Whether Bill 30 passes or fails, there will be ramifications. The OAFC is committed to work with the stakeholders to minimize that impact.

If you have any questions, that's the end of my presentation.

The Chair: Thank you, gentlemen. I'll turn to the PC side.

Mr Ernie Hardeman (Oxford): Thank you very much for the presentation. Maybe I'm looking at it too simplistically, but to me this is more a bill about my right to do with time that's my own rather than when I'm working. I spent 25 years as a volunteer firefighter, and no one told me what I could with the time that I wasn't at work. It seems to me that's what this is trying to correct. Do you not see the same need for professional firefighters to have a right not to be governed by their union contract when they're not at work?

Mr Wilson: I believe that at the end of my statement we said, "The OAFC supports the right to fair representation for Ontario's firefighters," which means that

not only can they two-hat and be a volunteer firefighter; they're also free to do other things on their own time, when away from work.

Mr Ted Arnott (Waterloo-Wellington): I want to thank you very much for your presentation. I think you brought some important points forward for the committee's consideration. Members in your organization have a lot to say about this, obviously, and we have to heed your advice. Do you support Bill 30 in principle?

Mr Wilson: We put out a letter on June 12, which is attached. We say that we support the intent of Bill 30. We just have problems with the legal ramifications that could happen with the wording in it.

Mr Arnott: As the individual who brought the bill forward initially in the Legislature, I'm certainly quite happy to consider amendments with respect to the presentations that have come forward both last week and this week. If we can find ways to improve the bill to make sure its intent is better understood, is clarified so that over time it stands up, I would want that to happen, obviously. So we do appreciate the advice that you bring forward.

The question I have goes back to the middle of your presentation, on page 3. You say, "The local firefighters' associations will be compelled to challenge the legislation at the municipal level to enforce the wording in their collective agreements until that wording is changed through negotiations or arbitration proceedings." Why would they be compelled to challenge the legislation?

Mr Wilson: Local unions will have contacting-out clauses. If a union member's card is pulled, not being a member of that union through the union shop clauses, they wouldn't be able to work in the fire service. The city may be compelled to try to keep them working in the city somewhere but, because of the wording in the collective agreement, they wouldn't be able to work at the fire department. Not all collective agreements have contracting-out clauses, but many do.

The Chair: Chief Wilson and Chief Tennant, thank you very much for your time.

OFFICE OF THE FIRE MARSHAL

The Chair: I wish to call forward the office of the fire marshal of Ontario.

Mr Kormos: Chair, while the fire marshal is seating himself, I wonder if we could address Mr Fenson in terms of legislative research. A reference was made last week to craft unions like electricians' unions, plumbers' unions and so on that had the potential to pull their member's union card in the event that that union member worked at a non-union job. I appreciate the short time frame, but I wonder if by tomorrow Mr Fenson could give us some briefing on that. It could be simple. I could give you the names of some of the union bosses I know and you could give them a call.

The Chair: Could we leave that with you, sir?

Mr Kormos: Why don't you give us some briefing on that?

Mr Avrum Fenson: On instances where this is done?

Mr Kormos: In the craft union contracts. Building trades, craft union contracts would be the most appropriate, I would assume.

Mr Levac: On a point of order, Mr Chairman: Just a quick clarification. In the subcommittee we asked for the minister to be present, and we received another letter from the minister's office saying that the fire marshal would be coming. Is that in his place, speaking on behalf of the government, or is that just the fire marshal making a presentation as the fire marshal?

The Chair: Sir, do you have an answer to that comment?

Mr Bernard Moyle: It's my understanding that I'm speaking as the fire marshal.

The Chair: Good afternoon, gentlemen. For Hansard, we'd ask you to please give us your names. We have 15 minutes and we'd like a bit of time for comments within that 15 minutes.

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Mr Moyle: Good afternoon. My name is Bernard Moyle, and I'm the fire marshal of Ontario. I am joined today by deputy fire marshal Doug Crawford and assistant deputy fire marshal Tony Mintoff.

I would like to thank the committee for allowing us the opportunity to provide comments on Bill 30, the Volunteer Firefighters Employment Protection Act. This is a very complex and highly emotional issue, as it involves public safety, individual rights, union rights and potential changes to labour relations. The issue has raised concerns within the fire service community and with the public, public officials and municipalities, and has been well reported in the media. Historically, volunteer firefighters have played a vital role in the delivery of fire protection services in the province of Ontario, especially in rural areas. Approximately 95% of Ontario's fire departments are either volunteer or have a volunteer component. Career firefighters have for many years offered their services to other municipalities on a volunteer or part-time basis during their off-duty hours. This practice has become known as two-hatting.

In most full-time and composite fire departments, career firefighters are represented by local associations that are affiliated with both the Ontario Professional Fire Fighters Association and the International Association of Fire Fighters. The constitutions of both these organizations prohibit career firefighters serving as volunteer firefighters. As a result, the OPFFA has periodically directed that members stop two-hatting or be charged under their constitution, which could result in being expelled from the association.

Expelling two-hatters is problematic because many fire service collective agreements in Ontario require their members to maintain membership in the firefighters' associations as a condition of full-time employment. This common stipulation means that a full-time firefighter found guilty of a breach of the association's constitution and bylaws could have their membership revoked and consequently be ineligible to continue their full-time

employment. Understandably, career firefighters who are serving as volunteer or part-time firefighters would be under considerable pressure to resign if their full-time career was put at risk.

The conflict between the practice of two-hatting and the association's constitutional provisions is producing tension and instability in Ontario's fire protection delivery system. My office was officially notified of a potentially serious situation involving two-hatters by the chief of the Hamilton fire department on February 8, 2002. In addition to the letter from the city of Hamilton, a number of other letters and inquiries on this subject were received indicating that some career firefighters were receiving letters from their association requesting proof of resignation from their part-time employment within 30 days.

Information received by my office indicated that the scope of the IAFF activity was not limited to Ontario but was also occurring in some areas of the United States. As a result, I established an internal working group to examine the issue of two-hatting and to determine whether there was a public safety concern arising from the OPFFA's increased activity to enforce its constitutional provisions against its members who were two-hatting.

Under the Fire Protection and Prevention Act, the fire marshal has discretionary power to review and monitor municipal fire protection services to determine if they meet the mandatory requirements of the FPPA and if a serious threat to public safety exists. This was the authority we used to constitute the working group to review the two-hatter issue. Because of the scope and nature of this issue, my office proceeded under the potential serious threat section of the FPPA to review the impact of the OPFFA initiatives to enforce their constitution.

The OFM's concern was that these actions had the potential to result in a sudden withdrawal of the services of two-hatters throughout the province. The right-to-work issue is not part of the mandate of the OFM and was not addressed in our analysis of the situation. In fact public safety was, and continues to be, the OFM's single focus in this matter.

I would now like to review the steps taken by my office in attempting to reach a non-legislated solution.

A brief meeting was held with representatives of the Ontario Association of Fire Chiefs and the Ontario Professional Fire Fighters Association in mid-February 2002 to informally discuss the issue. At that time, the OFM committed to working with affected stakeholder groups to determine if there was any common ground that could be used to arrive at a sustainable solution to the problem. The OPFFA and the OAFC agreed to work with the OFM and other stakeholders. Moreover, the OPFFA agreed not to aggressively pursue charging their members until such time as the matter had been reviewed and discussed with the stakeholders. They also committed not to take any action that would jeopardize public safety.

A draft discussion paper was prepared by the OFM working group and distributed to the stakeholders for review and comment. The paper concluded that there was no immediate threat to public safety at this time, but a sudden or widespread withdrawal of two-hatter services would have varying degrees of repercussions to municipalities, up to and including a potential serious threat.

Formal individual discussions were then initiated to obtain the positions of the following stakeholders: the Fire Fighters Association of Ontario; the Ontario Professional Fire Fighters Association; the International Association of Fire Fighters; the Ontario Association of Fire Chiefs; and the Association of Municipalities of Ontario. The first meeting was held with representatives of the OPFFA and the IAFF on May 14, 2002.

On May 22, 2002, MPP Ted Arnott introduced a private member's bill, Bill 30. We now had the consultation process as well as a proposed legislated solution on the table.

The consultation process continued, and the first joint stakeholder meeting was held on August 1, 2002, to determine whether a non-legislated solution could be found. Several ideas were discussed and proposals put forth, one by the Ontario Association of Fire Chiefs which involved grandfathering existing two-hatters, and another by the OPFFA which involved the phasing out of two-hatters in a manner that would not jeopardize public safety. At the request of AMO, the parties were requested to provide more detail on their proposals.

The proposals were sent to all the stakeholders for review and comment. In response to these proposals, both the FFAO and AMO advised my office that they could not support the proposals and were supporting a legislated solution.

During the discussions, it was apparent that no mechanism existed to allow any of the parties to bind their membership to any agreement that may have been arrived at by the parties. For example, AMO could not bind municipalities to an agreement reached with the OPFFA, nor could the OPFFA guarantee that their locals or individual members would adhere to an agreement. Certainly, all were in a position to influence their membership.

Moreover, the parties appeared to be polarized in their positions related to phasing out two-hatters. For example, the FFAO, AMO and the OAFC do not support the phasing out of career firefighters who serve as volunteer part-time firefighters, which is the position of the OPFFA. There simply was no common ground for agreement on a non-legislated solution.

For the reasons stated above, it is our opinion that an enforceable and sustainable non-legislated solution to the two-hatter issue is not achievable.

In a letter distributed to members of the OPFFA on October 1, 2002, by Mr Fred LeBlanc, president of the association, the moratorium on secondary employment charges was lifted, which could significantly increase the activity by the OPFFA membership and potentially impact on public safety.

It is my understanding that the OPFFA committed to the moratorium as long as constructive dialogue was

taking place. This is no longer the case, so the moratorium was lifted. This is not intended as a criticism of the OPFFA, as they have a legal right to enforce their constitution. However, the lifting of the moratorium by the OPFFA will likely exacerbate the existing tension and uncertainty in both the fire service and municipal communities, and it is unclear to what extent and degree this action will impact on existing two-hatters.

The sudden or phased withdrawal of two-hatters from communities dependent on volunteer fire departments could significantly impact on their ability to provide an adequate level of fire protection and may in some cases pose a potential serious threat to public safety for the following reasons.

There would be a loss of experience, leadership and expertise in some communities. In fact, for that very reason, even a single two-hatter can make a significant difference in a small rural community. For example, some two-hatters serve as senior officers and captains and have fire prevention and training responsibilities, which are key functions in any fire department.

There may be a reduced capacity for providing adequate emergency responses during weekdays, when two-hatters are more readily available due to their shift schedules.

Increased response times may occur, at least until replacements can be recruited and adequately trained, if in fact replacements are available within the community. There may be an increased time in which to assemble an adequate fire attack team and a potential short-term reduction in fire ground effectiveness, resulting in greater fire losses.

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The time required to recruit and train full-time, part-time or volunteer firefighters can be extensive, creating short-term delivery difficulties. In some communities there may not be a pool of potential candidates available to become volunteer firefighters and a community may not be able to afford hiring full-time firefighters, creating a potential public safety issue.

In a number of communities that have a heavy reliance on two-hatters, the sudden withdrawal of their services could create a potential serious threat to public safety.

In conclusion, there is a provincial and public interest in protecting two-hatters who wish to serve as volunteer firefighters. We do not believe that a non-legislated solution is achievable or enforceable. As a result, without a legislated solution, the existing tensions and uncertainty in the fire service community will continue, and the high potential for two-hatters to resign as a result of OPFFA constitutional enforcement activities could well result in significant public safety concerns arising. It is my understanding that such protection is not uncommon in most jurisdictions in Canada and in the United States.

In closing, my office recognizes the importance of balancing interests where possible, but supports first and foremost the need to develop a legislated solution that clearly protects the interests of public safety. It is important that career firefighters who wish to serve as part-time or volunteer firefighters in their home communities are permitted to do so without fear of loss of employment.

Thank you for allowing us the opportunity to appear before this committee to make a presentation on the two-hatter issue. We'd be pleased to answer any questions you may have.

The Chair: Thank you, sir. We really only have about one minute. Any comments?

Mr Levac: I'll be very brief. Thank you for your presentation, Fire Marshal. I've got so many questions that I'll get to the one that I think I needs clarification. You indicate that the first joint stakeholder meeting was held August 1, 2002. Can you tell me how many meetings took place after that?

Mr Moyle: That was the only meeting. That was when the OPFFA and the OFC put their proposals forth and we had to distribute those proposals for the other stakeholders to comment on. After we evaluated the responses, it was pretty clear that there was no opportunity to achieve a non-legislated solution.

Mr Levac: That was after your appraisal of AMO's decision and the OFFA?

Mr Moyle: Yes.

Mr Levac: And you never got to the table after that?

Mr Moyle: No.

Mr Levac: Thank you.

The Chair: Thank you, Mr Levac. On behalf of the committee, we wish to thank the office of the fire marshal. Thank you, gentlemen.

EAST GWILLIMBURY, WHITCHURCH-STOUFFVILLE, GEORGINA, AND KING TOWNSHIP

The Chair: For the next delegation, I ask for the towns of East Gwillimbury, Whitchurch-Stouffville, Georgina, and the township of King.

Mr Kormos: If I may, Chair, I want to welcome the Minister of Labour to the committee.

The Chair: Thank you, Mr Kormos.

Good afternoon, gentlemen. We would ask you to give us your names. We have 15 minutes.

Mr John Rogers: Thank you, Mr Chairman. My name is John Rogers and I'm the chief administrative officer of the town of East Gwillimbury. Beside me is Mayor Wayne Emmerson from the town of Whitchurch-Stouffville. I'll be giving the first part of the presentation, then Mayor Emmerson will give some additional comments to you. I'd like to advise you that as well we have, from the town of East Gwillimbury, Chief Ken Beckett; from the town of Georgina, Chief Bill O'Neill; from the township of King, Chief Dennis Gannon; and the from the town of Whitchurch-Stouffville, Mayor Emmerson, Nick Kristoffy, the CAO, and deputy chief Tim Beckett.

First, I'd like to tell you a little bit about the four municipalities. We're all in the GTA; we're in the northern part of York region. The town of Whitchurch-

Stouffville has six full-time firefighters and 58 volunteer firefighters, 19 of those being double-hatters. The township of King has no full-time firefighters, 88 volunteers, 19 double-hatters. In the town of East Gwillimbury we have no full-time firefighters, 80 volunteers and 20 double-hatters. The town of Georgina has 22 full-time firefighters, 41 volunteers, eight of those being double-hatters or two-hatters.

I'd like to deal with three basic areas: firstly the right to work, secondly the safety issues, and thirdly the financial impact on small municipalities.

The right to work is something that we feel is very important. This legislation is aiming toward the opportunity to give to people who are volunteering for our fire departments the right to work in that capacity. We're not trying to take away any right from those firefighters. They are entitled to work in any role they wish. We find it unusual that in many situations the full-time firefighters are given the opportunity to work in other roles in either part-time capacities or in another capacity, as an electrician, as a plumber, doing anything they wish to do. To us, this opportunity to work as a volunteer firefighter for a town such as East Gwillimbury or Whitchurch-Stouffville is certainly something they should be given that right to do.

The second issue is the issue of safety. I heard the fire marshal. I'm glad they went in front of us to confirm what our view is, that is, that the provision of assistance by full-time firefighters to small communities such as ours is immeasurable. We cannot say to you in any stronger words than that it is essential that we have a proper and fully trained firefighting force in the four municipalities I'm speaking for today. We need the assistance of the full-time firefighters. They are often our training officers. They are often the people who train our new volunteer firefighters who are coming on to the force.

The other side of it is that we are finding people in our community who want to help our community. It's important that they're in the community helping the community. They often will come to the municipality when they have an interest in firefighting and will join the volunteer fire force so they can get some experience and can get some training. Often what happens is that the volunteer firefighter then moves up and finds a full-time position in a municipality that is offering full-time firefighting opportunities. We feel that is very important for the concept of developing safe firefighting forces, not only for our municipality but also for the municipality where they go to work. The new municipality will have an opportunity to hire someone who has training, who has the ability and the experience of having offered their services in a volunteer capacity. Very often, when they do go to that full-time position, they want to come back to their community and offer their services and, in a sense, give their thanks to their community and be part of the volunteer firefighting force. We certainly find that can be accommodated. They can be a full-time firefighter and still come back to their community and help out in their local community.

The third point I wanted to make was very briefly about the financial impact. Again, I heard the fire marshal indicate to you that in smaller municipalities the financial impact could be quite significant if we had to go to full-time firefighting forces. In our town of East Gwillimbury it would essentially be a financial burden that would be very difficult to pass on to the taxpayers of our municipality.

We know that as we grow—all the municipalities in the GTA and in York region are growing—we'll have to go to full-time firefighters at some point in the future. But it should be on a planned basis, it should be on a smart growth basis, and we would like to control that, rather than being put in a position where we are concerned that if there is all of a sudden a removal of the double-hatter concept, we would be put in a very difficult position financially.

We do welcome the legislation that is before the committee and would ask that you support the legislation.

I'd like to turn it over to Mayor Emmerson.

Mr Wayne Emmerson: Thank you, John. Thank you for taking us this afternoon.

In my municipality, although we don't have that many, it's not about dollars and cents. It's about helping my community. Those full-time firemen who are working as double-hatters make between maybe $4,000 or $5,000 extra a year. It's not big money.

We're the highest-paying volunteer group in the province of Ontario. I know that. But it was getting down to the daytime, when we were having difficulty getting people who could volunteer their services during the day and not at night. That is why we had to go back quite a few years ago to hire full-time fireman as volunteers. They welcomed the chance to come and help us. It wasn't a common thing many years ago, but now it is.

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So I think it's of benefit to us to have them, because I think we all know that if you take a volunteer, they do their best when they go out and they learn the best trade they can. But it's that professionalism; when you have someone in a major fire, ladies and gentlemen, you need the best possible we can have. Having a few of those full-time firemen coming to help our volunteers is a big benefit to my municipality.

As John says, we're going to eventually get full-time fire people. As a matter of fact, just the other day we hired 12 new recruits—very young recruits, not full-time people. They were hired as volunteers. It was great to see them come out. It's tough sometimes to leave their jobs, but they do it. The other day we lost a fireman because he worked for my works department. He was a volunteer fireman in off hours. We trained him and put extensive dollars into him. Now he's working for the town of Richmond Hill as a full-time fireman, but he wants to come back and help his community that he serves.

Ladies and gentlemen, I really hope you consider this bill because we don't want to lose these people. They are a big benefit to my community.

The Chair: Thank you, gentlemen.

Mr Kormos: I found it interesting that you're jointly submitting. You, sir, say it's not about dollars and cents within minutes of you, sir, saying that if double-hatting were not permitted, it would put us in a very difficult position financially.

Mr Emmerson: Maybe I can explain myself. It's not about dollars and cents to the fire person. I think some people think that they do this because they're going to get a lot more money. They do not get a lot of money. They only get between $4,000 and $5,000 extra in their pay. It's big money to a municipality when we can use these people instead of going to a full-time force. My issue was that it's not big money to the double-hatter who's coming to work for us. I do apologize.

Mr Kormos: I heard the passion last week of a double-hatter who appeared to be adamant that he should be entitled to volunteer, as well as being a professional firefighter. He was passionate, no two ways about it. But I'm listening to you and, again, I don't quarrel with anything you say, because I'm getting the impression that it's very important that communities like yours and others that made representations last week have the expertise of firefighters who are professional firefighters from other communities. Is that a fair observation?

Mr Rogers: Sure, in many respects. I'd like to see where you're going with that.

Mr Kormos: Let's do it one step at a time.

Mr Rogers: Yes, that's fine.

Mr Kormos: I just wanted to know whether that was a fair observation.

Mr Rogers: To a certain extent, yes, because there's the reverse to that as well. The reverse to that is that we take people from our communities who are interested in fire protection and service to their community, and we train those young people with professional training. We give them professional training and the opportunity to find out if they really are meant to be part of the fire service. Once they've found that that's the case, then they go to the full-time position somewhere else.

Mr Kormos: Not necessarily in your community.

Mr Rogers: Certainly not in our community, because we don't have any full-time firefighting positions.

Mr Kormos: You're not suggesting there's any injustice done to you financially as a result of that, are you?

Mr Rogers: No.

Mr Kormos: Again, I've got no quarrel with your taxpayers, right? But should I be concerned that I'm training a firefighter in my community—you heard me mention this to one of the presenters a little while ago—whose expertise is being utilized and who is creating a financial advantage? You said that if it weren't the case, it would put you in a very difficult position financially. Should I be concerned that you fellows in your community aren't kicking anything back to share some of the cost of that training?

Mr Rogers: Sorry. I don't understand that.

Interjection: Are you ripping off the other guys?

Mr Kormos: If I'm paying taxes for a full-time professional firefighter in his or her training, and then you're taking advantage of that financially—you said that if that full-time firefighter weren't allowed to work as a volunteer in your community, it would put you in a very difficult position financially, right?

Mr Rogers: Yes.

Mr Kormos: But you're not kicking anything back to the community that's training that firefighter, are you? You don't expect to.

Mr Rogers: Except what I said earlier to you. Very often we do provide that service. Those people who are coming back to our community have come from our community, so we've already put dollars into the training of those firefighters in our community.

Mr Kormos: Sort of a quid pro quo from your point of view.

Mr Rogers: Yes, a quid pro quo.

Mr Kormos: My sense, I've got to tell you as I see communities across the province, is that we've got 100% professional firefighters and we have volunteer-based, part-time firefighters, because the language has evolved, hasn't it? Then we've got composite or what I call hybrid communities. I remember back when old Jack Labenski responded to the Crowland fire siren down on Lyons Avenue, down where I come from, as he ran from his little corner store. My sense is that small towns that are utilizing volunteer forces as their sole base regard these as part-time, on-call firefighters more so than they do volunteers in the sense of old Jack Labenski tearing off his butcher's apron and running to that little fire hall as the siren's blowing down on Lyons Avenue in Crowland.

Mr Emmerson: I hear you, sir, but have 58 volunteers. Only 19 are double-hatters. We're not expecting all these people on our fire brigade to be double-hatters. We know at least two thirds or more are volunteers. We also need some of these double-hatters to cover some of our times when there's not accessibility for all volunteers.

I don't disagree with you when you're talking about dollars and cents. I have another company that I also work at. I have plumbers, electricians, carpenters and you name it who are upset that these fireman can go out now and work, build a home and charge less money than a professional carpenter can. They're saying we're not doing justice with them; you're not really taxing them anything different. So I think that all these volunteer firemen who are full-time firemen also are just asking to come in and help our community, but I don't think we're taking anything away from you people who have paid the full-time rate to put this person through fire college or whatever you have to do to make him a full-time fireman.

Mr Kormos: I hear you, and I take you at face value. I suppose if Mr Snobelen were here, he could give us a real idea of what double-hatting means.

The Chair: Thank you, Mr Emmerson and Mr Rogers. We appreciate your time.

WHITBY PROFESSIONAL FIRE FIGHTERS' ASSOCIATION

The Chair: We would call forward the next delegation, the Whitby Professional Fire Fighters' Association.

Good afternoon, gentlemen. We'll ask you to give us your names. We've got 15 minutes, and you may want to leave a few minutes for questions from committee members.

Mr Mike Pfeiffer: Certainly. Thank you. My name is Mike Pfeiffer and I am the president of the Whitby Professional Fire Fighters' Association, IAFF Local 2036. With me is Ron Haines, secretary of our local. I have been a professional firefighter in Whitby since 1989 and a paid on-call firefighter two years prior to my full-time employment. I am here today to speak against Bi11 30 for a number of reasons. I will address working conditions, job security and firefighter safety as well as community safety in my presentation.

After 31 years of collective bargaining, the members of our local enjoy a stable labour-management relationship, reasonable benefits and good working conditions. These benefits were negotiated due to the sacrifices and solidarity of our members. Successful staffing and training standards were negotiated based on a group of dedicated professional career firefighters employed by the town of Whitby.

Past and current agreements would have been difficult to obtain with the pressures of a competing group of paid on-call firefighters consisting of IAFF members from other locals. This is an even greater concern now that the 18,000 volunteers/paid on-call firefighters have the right to become unionized, with the right to strike like other municipal employees. Municipal policy will then be determined through potential strike action.

Local 2036 executive boards have consistently educated their members that the violation of our constitution as it pertains to secondary employment as a volunteer/paid on-call firefighter will have a significant negative impact on many of the benefits that we currently enjoy. Local 2036 members have never worked as paid on-call firefighters in other communities, nor have our members allowed IAFF members from other communities to work as paid on-call firefighters in Whitby.

Job security may not always be in jeopardy during strong economic growth; however, during recessions municipalities will always try to find cost savings. Without our ability to enforce our constitution, municipalities will hire IAFF members from other municipalities to work as paid on-call firefighters for less pay and no benefits. The use of double-hatters will jeopardize the job security of all members, especially members such as Tim Lee who have little seniority. Tim Lee may fall victim to the very legislation that he so vehemently supports.

Bill 30 will jeopardize hundreds, if not thousands, of full-time firefighter jobs because there are absolutely no protections in Bill 30 for the over 9,000 professional firefighters, including Tim Lee. The over 600 professional firefighters who live in our community of Whitby will have to be considered a threat to our job security if Bill 30 is passed.

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Firefighting is an extremely dangerous and physically exhausting activity that requires all our members to be physically and mentally prepared to perform all firefighting duties when they show up to work. A professional firefighter who works as a paid on-call firefighter in their off time has no control over when emergencies will happen and will feel committed to respond even if they are required to go into work at their full-time employment. It is only logical that these firefighters, when exhausted, will jeopardize their safety as well as the safety of their crew. Tim Lee is the only member in our department currently working as a paid on-call firefighter. However, we have over 14% of our members who could work as paid on-call firefighters, which would seriously increase the chances of firefighters not being prepared to work at their full-time jobs. This will increase the use of sick leave, WSIB benefits and the duty to accommodate obligations, as well as added exposures to cancer-causing agents.

Our department is a small department that relies heavily on a limited number of firefighters to provide emergency services to our community. Many times during the year general alarms are sounded, requiring all members to report back to work. If 10% to 20% of our department have commitments to other communities and are unable to respond, firefighter safety as well as the safety of the community they are contractually obliged to protect will be seriously jeopardized. Our taxpayers have nothing to gain and everything to lose with Bill 30. Why should the town of Whitby taxpayers subsidize the city of Kawartha Lakes' fire and emergency services? Our taxpayers will have to foot the overtime costs for Tim Lee's replacement when he doesn't report to work or is injured or disabled as part of his secondary employment.

We should all be able to agree that although we live in a free and democratic society, nobody has the complete freedom to work where they please. Our members cannot exercise their basic democratic rights and run for public office in the community they live and work in. Members of the provincial Parliament have restrictions on secondary employment. Most union workers cannot work on other trade union sites—well, apparently not.

Mr Richard Patten (Ottawa Centre): We don't have restrictions.

Mr Pfeiffer: This has been challenged and stayed all the way to the Supreme Court of Canada. Most private sector employees have conditions of employment that prevent moonlighting in their respective professions. Police officers cannot work part-time for other forces.

All we are asking for is the right to protect our job security, working conditions and safety, and to have the same right to discipline our members as do all other professional organizations.

Because of the time constraints we are under, we have taken the liberty of preparing some questions and our answers to these questions are for you to peruse. We thank you for allowing us to present.

The Chair: Thank you, sir. You've left eight or nine minutes for questions or comments.

Mr AL McDonald (Nipissing): Thank you for your presentation. As you might know, or might not know, I

voted against first reading of this bill and I wanted to hear all the different pros and cons.

Is your concern that a volunteer who is a two-hatter might be too tired to perform the next day? Is that the concern you have, a public safety concern?

Mr Pfeiffer: Quite often, emergencies don't follow the 9-to-5 work pattern that most people follow. So at 3 o'clock in the morning, when that call comes in the from the city of Kawartha Lakes or a small community up north, that firefighter feels obligated, with that strong sense of community, to respond and ends up rolling in to work at 7 o'clock in the morning exhausted and unable to perform their duties. Has this happened in the past? Yes.

When we expand that to a greater percentage of members in our department, that just increases the odds of that happening on a continuous basis. We are a very small department. We don't have the luxury of an endless amount of staff at emergency calls.

Mr McDonald: Having said that, and I can understand the argument that the individual might not be able to perform because of his volunteering on the weekend, do you have the same criteria if one of your members is a hockey coach and he takes his hockey team eight hours down the road for a hockey tournament and comes back and he doesn't get in till midnight? Obviously, he won't be able to perform the next day as well. Do you have the same criteria for other volunteering aspects of your members?

Mr Pfeiffer: I've had the experience of coaching teams and I've had the experience of being a firefighter, and I cannot compare the exhaustion you will get at a fire call to coaching a team and being up till 12 o'clock at night. That's not comparing apples to apples.

If our members show up to work not prepared to work, yes, there are avenues to deal with that. The officer on the shift has the opportunity to deal with that.

I don't know if that answers your question.

Mr McDonald: I was interested in your questions and answers here, sir. I don't know who Tim Lee is, but it states in here, and this is your suggested answer, "Our members have conducted themselves in a professional manner throughout this entire process," and I congratulate you on that. But the next line kind of bothers me a bit, that you say, his "public campaign of misrepresentation and lies." Is that a professional stance, for you to state that he's lying? Is he lying?

Mr Pfeiffer: Yes.

Mr McDonald: He's lying?

Mr Pfeiffer: Yes, as a matter of fact, he is.

Mr Arnott: I don't believe that Tim Lee is lying, but that's your submission. I suppose observers can listen to both sides and draw their own conclusion.

But I have seen the letters that have gone from a number of unions to their members whom they accuse of being double-hatters, and they state in the letter, "If you don't quit your volunteer service, we will take steps to have you dismissed from the union and therefore you could lose your full-time job." If that's not a threat, if that's not intimidation, I don't know what is.

Mr Pfeiffer: With all due respect, Mr Arnott, you quoted our member in your introduction of Bill 30 without even verifying if in fact those accusations were true. I called your office, spoke to your assistant and asked for you to return the call. You failed to do so. I say to you, when you made that quote in the House, did you attempt to verify whether in fact our member was harassed? I take great exception to a member of this House accusing members of our local of that type of activity. For you not to return my phone call so you could at least get the other side I felt was inappropriate.

Mr Arnott: I asked my staff to get back to you. I assumed that they did with the message.

Mr Pfeiffer: No. I spoke to your staff member and I asked specifically for you to call so you could perhaps try to verify whether in fact what you quoted as a justification for the introduction of this bill, to find out if in fact that had happened—and that was not done.

Mr Arnott: At least we're having the dialogue at this time.

Mr Pfeiffer: The introduction was June 6.

Mr Arnott: It was debated, discussed, and certainly I had a letter from Mr Lee. Again, I have no reason to—actually, you have really given no other evidence to suggest that anything he said in the letter to me or any of the statements he's made—you're just suggesting that it's a lie. You've offered no evidence to substantiate that, that I've seen.

Mr Pfeiffer: I could certainly forward you all the evidence that you need.

Mr John O'Toole (Durham): It's a pleasure to see you again. I just wanted to be on the record that I do have the greatest amount of respect for those in the fire service employ. That isn't really the debate here, in my view.

When I look at my riding, and specifically Port Perry, I see a community that's vastly underserviced. In fact, if I look in the future, it's an area they should be addressing with respect to the complement of full-time firefighters. But at the same time, not specifically in the case of Port Perry, but more in the cases of rural and remote parts of Ontario where they have no assessment base, it becomes an issue of public safety. It's from that perspective, Mike, where I try to find some reasonable and balanced way and I think you should have a part in determining what that reasonable way is, but people shouldn't be threatened in the respect that there's no other mechanism outside of the constitution for you to deal with this. But it has been an issue for some time.

I remember and know people who were volunteers with Whitby some years ago who slowly got phased out. The community was able to support a more professional, full-time, completely developed force. So that's really where I'm coming from.

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Assessment-poor communities have a really difficult challenge to meet the new fire safety standard, the 10 and 10—all full-time. That's a pretty onerous challenge for some communities. You respectfully think that trained professionals as volunteers offer a great resource, albeit being subsidized by Whitby, Toronto or someone, and a

tremendous asset to those communities. Fortunately, in the future they may have opportunities in Port Perry, Lakefield or wherever else the circumstances arise.

Have you got any feeling? Because I'm stuck. This isn't a statement about any sort of disrespect for you, the Whitby Professional Fire Fighters' Association, at all. It's about recognizing that the 10 and 10 standard isn't achievable for some communities for purely different reasons, basically assessment wealth.

Mr Pfeiffer: I don't know how I can answer that question. I'm here as a representative of our local, and I'm here to represent our community. I'm very sympathetic to rural Ontario, which has the difficulties in raising tax dollars to pay for their fire service, but there are ways to do it.

You mentioned Port Perry. Are you aware that volunteers from the community are not being hired and are being put aside so that double-hatters can be hired? These are local business owners who could respond but aren't even given the chance.

Mr Levac: Thank you very much for your presentation.

Mr O'Toole made reference to a big challenge for rural communities. Are you aware that police services receive 50-cent dollars to hire police officers?

Mr Pfeiffer: Yes.

Mr Levac: Would that help?

Mr Pfeiffer: As I have said in our presentation, the province of Ontario needs more firefighters, not less, and not one firefighter responding to two municipalities. That doesn't make any logical sense whatsoever. Our community needs our firefighters, as your communities need your firefighters. There is a vast amount of expertise—my first captain was a volunteer captain, a 25-year volunteer, and I learned a great deal from that individual.

I would continue to ask this provincial body to support the education of volunteers. Let them build the experience. Don't rely on full-time forces as the only avenue for training and expertise in volunteer companies.

Mr Levac: Mr Chairman, do I have time for a couple of quick ones?

The Chair: Half a minute.

Mr Levac: You indicated that with the passing of Bill 30, there could be major problems for 6,000 more people. Do you believe there'll be a mad rush for professional firefighters to volunteer?

Mr Pfeiffer: We have, in the past, through labour discussions, been threatened with exactly that: that either through us being laid off or no more hirings—and we will aggressively recruit full-time firefighters to impact our jobs. That has been a threat in our municipality and in two other municipalities in the region of Durham.

The Chair: Thank you, gentlemen. We appreciate you coming forth on behalf of the Whitby Professional Fire Fighters' Association.

CITY OF KAWARTHA LAKES

The Chair: I now wish to call forward the city of Kawartha Lakes. Good afternoon, gentlemen. We'd ask you to give us your names, please, for Hansard. We have 15 minutes.

Mr John Robison: My name is John Robison, CEO for the city of Kawartha Lakes. To my immediate right is Mayor Art Truax, and to my far right is Chief Dave Guilbault, director of fire and rescue services for the city of Kawartha Lakes.

First of all, Mr Chairman, I would like to thank you and the members of the committee for giving Bill 30 the attention it deserves. And of course, a very special thank-you to Ted Arnott, MPP for Waterloo-Wellington, for his understanding of a major injustice with respect to firefighters and for his initiative in bringing the matter to the legislative bill stage. Thank you also to those members who have already supported Bill 30 in its first and second readings. As well, thank you to the many municipalities across Ontario for overwhelmingly offering their support to Bill 30.

Obviously, the city of Kawartha Lakes supports Bill 30 in its first and second readings. As well, thank you to the many municipalities across Ontario for overwhelmingly offering their support for Bill 30.

Obviously, the City of Kawartha Lakes supports Bill 30. It addresses a long-time void; that is, the absence of the right to fair representation for firefighters, a right granted to all other occupations in the province through the Labour Relations Act. The absence of the right to fair representation for firefighters in Ontario is a flaw that does not exist in most other provinces in Canada or states in the United States.

Sadly, that flaw is being exploited by the Ontario Professional Fire Fighters Association, a branch of the International Association of Fire Fighters, a 245,000-member, Washington, USA-based union, of which 17,000 members are in Canada. Hundreds of skilled firefighters have already resigned their community volunteering role because of the threat by the IAFF that their continued activity will result in their membership being withdrawn, in many cases effectively terminating the employment of the offending firefighters.

Mr Chairman and members, in many respects this IAFF constitution which permits such action is archaic and possibly contrary to the Canadian Constitution. For example, this constitution prohibits membership in the Communist Party by an IAFF member even though Canada is a country where the Communist Party is not an outlawed party. I mention this because comments have been made by MPPs who have expressed concern about interfering in any union's internal business. We contend that if the IAFF constitution effectively denies to firefighters privileges that would be granted to other working groups in Ontario, something is drastically wrong. If the union constitution runs contrary to our country's Constitution, then something else is drastically wrong.

Full-time firefighters who at the same time volunteer as firefighters in their community of residence have been living with a threat of withdrawal of union membership for all too long. The province now has a situation where at this very moment many full-time firefighters across the

province are effectively being threatened with giving up their voluntary firefighting service in the community in which they reside or risk losing their full-time job entirely.

We were advised that the provision regarding "membership in a rival organization" until recently was very rarely enforced, and when it was, it was the result of a complaint by a union member against another union member. This appears to no longer be the case.

The issue has been discussed previously, not only in Ontario but also in other Canadian provinces and in the United States. Attempts have been made by the IAFF members in the past to remove this provision from the constitution, but it still remains, possibly because of its limited use. Probably another factor is the irony of this provision being an attempt to limit moonlighting in a known skill possessed by full-time firefighters while at the same time being silent on moonlighting outside the fire service, a common practice among full-time firefighters.

Interestingly, in towns and cities throughout Ontario, the volunteer fire service is common recruiting ground for full-time firefighters. Every person who gets involved as a volunteer firefighter brings some special skill or skills from their regular career that help the department as a whole. These skills can also be passed on from one individual to another. For example, mechanics help keep the fire trucks in top working order. Electricians teach about electrical hazards and what to watch out for in a fire. Medical professionals pass on knowledge of first-aid skills and organize the supplies required. One can only imagine the benefits when volunteer firefighters become career firefighters.

The IAFF claims that volunteering is threatening full-time jobs and/or slowing the formation of new full-time jobs in all cases, even in parts of rural Ontario where no full-time service currently exists. The union now refers to volunteer fire departments and/or their associations as rival organizations. This puts double-hatters in the difficult position of facing union discipline if they don't quit volunteering. The situation becomes even more serious for them, considering that most of these firefighters work under collective agreements that contain a closed-union-shop clause requiring maintenance in good standing of union membership as a condition of continued employment with their employer.

As is the case with many other Ontario communities, the City of Kawartha Lakes Fire and Rescue Service is dependent upon its volunteers, including its double-hatters. Replacement of double-hatters in the city of Kawartha Lakes with fully paid firefighters could increase the city's budget by a minimum of 3% to 7%. This is a burden which is not necessary and is unwise.

The flaw in the IAFF constitution creating such a loophole in fairness to firefighters can be remedied only by the government of Ontario. It cannot be done by municipalities acting on an employer-by-employer basis with their respective unions. Please do what other provinces and states in North America have done: right the wrong; plug the loophole. Bill 30 does just that. Please support it.

1720

The Chair: We have eight or nine minutes. I'll go to the PC side for any comments or questions.

Mr Arnott: The city of Kawartha Lakes is an amalgamated municipality, I assume. Just for the benefit of the members, what communities were amalgamated to form the city of Kawartha Lakes?

Mr Robison: It would take a long time to mention them all, but there are 17 municipalities plus a county. The major communities that were amalgamated are the town of Lindsay, the village of Bobcaygeon, the village of Fenelon Falls, Omemee, Pontypool, Coboconk, Norland. It's essentially a very, very broad rural community running 100 kilometres from top to bottom and 65 kilometres from east to west.

Mr Arnott: Did Lindsay have a full-time department before amalgamation?

Mr Robison: Lindsay had a composite department—some full-time, some volunteers—

Mr Arnott: But we're talking about mostly small towns?

Mr Robison: —and a volunteer fire service in all other communities with one minor exception, Bobcaygeon, with some fire prevention personnel—

Mr Arnott: I'm glad you pointed out the reality, and certainly this is the case in my community too, that a lot of young firefighters get their start as volunteers. Mr Kormos continues to allege that somehow it's improper for training to take place outside a municipality where another municipality will benefit from the training. I would argue that that in fact happens in the case of young firefighters who first become volunteers. They get at least their basic training, if you want to call it that, in the small town where they start, which may in turn benefit a neighbouring city if that firefighter gets a full-time job. Is that not correct?

Mr Robison: As a matter of fact, it is correct and very common, and one can understand why it's common. Here are individuals who have training in the field, in the techniques, and they're naturals for—

Mr Arnott: I represent a community that's largely rural, and I've never heard anybody complain that they're training these volunteer firefighters and they're going off to get full-time jobs. In many cases, if they continue to live in the community they came from originally, they wish to continue serving as a volunteer just to pay back to their home community.

Mr Robison: The irony is that to some degree the small communities are actually paying for the training of fully paid firefighters.

Mr Arnott: Exactly.

Mr Robison: I wouldn't say that—

Mr Arnott: Mr Kormos heard that.

I appreciate your support of the bill, and I understand Tim Lee is one of your volunteer firefighters.

Mr Robison: Yes, Tim Lee is one of our volunteer firefighters.

Mr Garry J. Guzzo (Ottawa West-Nepean): Thank you very much for your submission. I just want to state for the record that you have phrased the issue absolutely correctly: it is a contest between the union document and the Constitution of Canada. I assume that before you came here, AMO or somebody has asked for a constitutional opinion.

Mr Robison: I have a legal opinion that, yes, the provisions in the union constitution are indeed contrary to the Canadian Constitution.

Mr Guzzo: Quite frankly, I would have assumed that was the situation. I have never practised in the field of constitutional law, but I have heard Mr Kormos from time to time, one of the foremost legal minds in the House and in Ontario with regard to constitutional matters. I'm waiting to hear his opinion, because I know he's researched it.

Mr Kormos: I just defended innocent people. I never had a guilty client in my life.

The Chair: Mr Hardeman, briefly.

Mr Hardeman: Thank you very much for your presentation, well thought out and well versed.

The previous presenter—I presume you were in the room when they presented—was somewhat concerned about the question, not in a derogatory sort of way, that having two-hatters was somehow infringing on the closed shop or the right to represent the full-time firefighters within the full-time departments of professional firefighters. Are they not closed in—if you are a professional firefighter, you are a member of the professional firefighters' association? Why would this have any impact on that?

Mr Robison: If the employees of the department are certified, more often than not they are members of the International Association of Fire Fighters in Canada. It's the primary firefighters organization. Not all collective agreements do have the union shop provision; in those situations the IAFF could not require the withdrawal of one's membership card and therefore require the loss of their job. But where they do, applying the contract, applying the collective agreement and an employee loses their membership, then obviously they have lost their job, because that's a condition of employment.

The Chair: We appreciate the city of Kawartha Lakes coming forward. Thank you very much.

Oh, did you want to slip in a question, Mr Levac?

Mr Levac: If I can, I'd like to.

The Chair: I'm sorry. I didn't realize you had a question.

Mr Levac: Yes. Well, it was actually the NDP's turn, but we rotated back after they had taken the other time.

The Chair: That's right.

Mr Levac: You had mentioned that you wanted to plug the loophole with Bill 30, and you say it does just that. Are there any problems or flaws with Bill 30 as it's presently written?

Mr Robison: I wish I could say that I could answer that authoritatively; I cannot. But I would expect that the wordsmiths drafting legislation would be able to look at that aspect of it. The principle of Bill 30 we certainly would support.

Mr Levac: You indicated in the last part of the brief that your budget would be increased 3% to 7%, and that you didn't think it was necessary but it was unwise. If you had money available, would it still be unwise to hire?

Mr Robison: Probably, yes.

The Chair: Thank you again, gentlemen.

SUE CANNON

The Chair: Our next presentation is from Susan Cannon. Good afternoon, ma'am. We have 10 minutes, if you wish to proceed.

Ms Sue Cannon: All right. I do have copies of my presentation, but I found people pay more attention if they don't have them ahead of time, so I've held on to them.

Good evening. My name is Sue Cannon. Even though appearing here today makes me somewhat nervous, I do want to thank the justice and social policy committee for the privilege of speaking on this issue tonight.

I live in a very large rural ward on the outer edge of the new city of Ottawa. West Carleton ward consists of 624 square kilometres, with a population of just over 18,000. I work 30 hours weekly in an administrative position so that I can allow myself the pleasure and satisfaction of volunteering in my community. I have been a volunteer all my adult life.

I was on an advisory committee for three group homes and volunteering with my local community association and mental health association when the issue of double-hatters came to my attention in March 2001. My councillor, Dwight Eastman, called a community meeting to determine if there was support to contest the double-hatter decision in the city of Ottawa. I joined the committee to support volunteer firefighters formed as a result of that meeting.

Four months later, my councillor's office asked me to join another committee representing Ottawa's five rural wards. This broader group became the rural fire services working group. In June 2002, my selection to the agricultural and rural affairs advisory committee was approved by the city of Ottawa councillors. This advisory committee has rural emergency protective services as part of its mandate.

I have been writing different levels of government for 19 months now about the need to provide protection to double-hatters and to our volunteer fire service. Normally, I would not talk about my volunteer commitments as I have done just now. I like the doing of the jobs and I don't need to talk about them. However, today I wanted to be sure that this audience understands that I do have a very real dedication to the people and community around me. Volunteering matters. Working in my community matters. Rights matter.

There are any number of labour issues, fire service issues and legal issues here relating to Bill 30. These can be as complicated as you want them to be. The more

complicated you make them, the better pleased the OPFFA executive is going to be. The more complicated, the more tiresome the arguments and the details, the more likely positive, permanent changes such as those proposed by Bill 30 will stall or die out. I don't see this issue as complicated. It comes down to what is right, what is fair and how we can make Ontario match the legislative protection provided by the majority of Canadian provinces.

I want sound answers to the following questions: Why, apparently, do the rights of this union "win" over the rights of an individual? Why does an individual volunteering to protect his or her neighbours and friends not "win" in the rights department over union directives that have been clearly stated as geared to giving the OPFFA more leverage when bargaining with employers? Why is it more important to support a self-serving union directive that is part of their own internal constitution over the rights each of us is supposed to have under the Canadian Charter of Rights? Certainly it suits the IAFF and the OPFFA to maintain the status quo. Just because they have had an unbalanced advantage to date is no reason to continue forward down this path.

1730

We have a responsibility to protect the quality of volunteer firefighting services in rural areas, and we have a responsibility to protect the rights of every individual professional firefighter who makes a free choice to serve their home community as a volunteer firefighter. To me, this is a fundamental basic right, a right that should be indisputable in Canada. I would have the same strong feelings if we were dealing with a protective bill for child care workers, forestry workers or any other profession. The type of work is irrelevant; this is a matter of principle. I would be extremely resentful if some person or group told me how I could or could not choose to serve my community on my own time.

The Upper Huntley Community Association, which is my local, totally rural community association, routinely funds projects with unpaid volunteer help and with help donated at a lesser than "book rate" fee. The municipality considers the money equivalent of the donated labour as money raised by the community association, and municipal grants are matched to the association's financial contribution. We now have two soccer fields, a baseball diamond, a lit and paved outdoor rink pad with basketball hoops, a play structure and a small building thanks to the community members who volunteered their time. What if the volunteer plumbers, electricians, carpenters and landscapers could not assist their neighbours? Our community's gains are the result of the differing skills our local volunteers can offer, including those skills offered by professional firefighters.

There is a critical shortage of volunteers in many fields. There are fewer people volunteering today, period. At the same time, many service providers require an increasing number of volunteers as services are downloaded or broadened. Our communities and our governments at all levels are dependent on the skills, goodwill and financial contribution volunteers make. Let's not throw up unnecessary roadblocks. It is a danger to any volunteer service to reduce the number of potential volunteers. Eliminating double-hatters does exactly that to the volunteer fire service.

On May 19, 2000, Mr Bill Cole, the chairman of the Ottawa Professional Fire Fighters Association, wrote to all members of the association informing them that "full-time firefighters working within the new city of Ottawa will not be permitted to work as part-time or volunteer firefighters for the same employer," effective January 1, 2001. On December 28, 2000, this order was modified by a memorandum of agreement between the Ottawa Transition Board and the Ottawa, Cumberland, Nepean, Gloucester, and Kanata Professional Fire Fighters' Association to grant an extension until September 4, 2001, with no extension beyond that date.

The transition board members were unaware of the serious implications this ruling would have on the ability of our volunteer force to maintain volunteer numbers, on volunteer morale and training, on fire station officer staffing and on our ability to provide daytime coverage. They made a quick decision in the last few days of December 2000, giving in to the fearmongering provided by OPFFA Local 162.

Legal advice since that time has shown that they were misinformed in many ways and the decision to make the "agreement" that they did was not necessary under present legislation and the definition of volunteer firefighter. The only missing piece of legislation was that of duty of fair representation and protection against job loss for the firefighter from their union. Everyone makes mistakes, including transition-municipal staff. We did not benefit from the elimination of our double-hatters. The union did.

An August 10, 2001, an Ottawa Citizen article quotes a report obtained by the Citizen, to be presented in camera to the city's EPS committee on September 10, 2001. "The report blames gaps in provincial legislation that did not anticipate the impact on collective agreements of merging municipalities for the two-hatter problem." The article goes on to say, "The city has approached the province to change legislation that would allow two-hatters, said Steve Kanellakos, the general manager of emergency services." Our September 10 EPS minutes quite bluntly say, "The bottom line is that the two-hatters were placed in an impossible position by virtue of these gaps in legislation, which can only be fixed by the province."

Friday, Ottawa Fire Chief Larabie wrote me a brief history of the city's efforts to retain their double-hatters as their understood January 1, 2001, deadline fast approached. Larabie writes, "On behalf of the Ottawa Transition Board, a meeting was held with the association to work out some arrangements that could address their concerns while preserving our two-hatters. Further meetings were held in our attempts to get them to abandon their position, but to no avail. The best that we could achieve was to get the association to delay their

actions until September 2001, in order to allow us some lead time in recruiting, training and restructuring the volunteer service. Consequently, the two-hatters were lost in the fall of 2001."

The IAFF is making gains all around rural Ontario. The union has the time, the money and the experienced staff to formulate plans and make decisions that are more informed than can city councillors splitting themselves so many ways to serve their municipality. The IAFF has full-time staff devoted to one goal. Pass Bill 30 for the sake of the rights of the individual firefighters involved and for the communities they serve. What happened here in Ottawa need not have happened and would not have happened if provincial legislation such as Bill 30 had been in effect at the time amalgamation took place.

While amalgamation has offered our fire services more resources and a more effective emergency response system, we have not replaced the experience our former double-hatters provided. We are just coming to the first-year anniversary of the first recruits brought on board to fill vacancies left by departing double-hatters. Realistically, and thankfully, there are limited opportunities for a volunteer firefighter to gain field experience due to the limited number of calls. Obviously it will be longer still before these first recruits have full in-the-field incident training. Regardless of the positive changes made through the volunteer firefighter management program, a program designed to help overcome the hardships incurred due to the loss of our double-hatters, we would have been much better off retaining our double-hatters.

As taxpayers, we have the right to the best service for each tax dollar paid. Volunteer firefighters in large rural areas provide us with this service. While my ward lost 10% of its total volunteer firefighters when double-hatters were no longer allowed, some municipalities stand to lose an even higher percentage of their total volunteer numbers. Bill 30 supports Ontario taxpayers. Bill 30 will prevent other municipalities from having to undergo the upheaval the city of Ottawa has undergone. Bill 30 will protect individual rights and volunteerism.

We need to support our firefighters and Bill 30 because it is the right thing to do. I am grateful that MPP Ted Arnott had the courage to put Bill 30 forward. I am thankful for the many MPPs who have provided support for this bill.

The Vice-Chair (Mr AL McDonald): Thank you, Ms Cannon. We have about two minutes left for questions. Mr Kormos.

Ms Cannon: I must have talked really fast.

Mr Kormos: Ms Cannon, we've got to go fast here. I'm persuaded that double-hatters are an invaluable resource to volunteer fire companies. There's simply no two ways about it. I don't think there's a person here who doesn't acknowledge that they, with their training and professional firefighting background, constitute an extraordinary contribution to volunteer firefighting units.

Please, in your view, what is the motive behind the Ontario Professional Fire Fighters Association in resisting double-hatting? How do you understand that?

Ms Cannon: We have it in print, in that letter we got May 19, 2000. I believe they said it basically would affect their bargaining rights, that it would conflict with them getting more professional firefighters on who paid dues, who provided money for them to do what they do. We had that documentation in print.

Mr Kormos: I know the Ontario Professional Fire Fighters Association, for as long as I've been here, has been on a campaign to increase the complement of full-time professional firefighters in every community where they exist. Is that your understanding as well?

Ms Cannon: I have read a lot of stuff about this and done a lot of research; I would say that was true. But my point today is speaking, as a community member who has volunteered for many years, for volunteerism and individual rights more than what you're asking me.

Mr Kormos: Go ahead. Are you saying there's more there than what I'm asking you?

Ms Cannon: No, I'm just saying if you ask a lot of questions about that other stuff, that's not what I'm here with today.

Mr Kormos: OK. So then, to understand your submission—

The Vice-Chair: Mr Kormos, that's all the time we have. Thank you, Ms Cannon.

1740

ONTARIO PROFESSIONAL FIRE FIGHTERS ASSOCIATION

The Vice-Chair: Our next presenters are the Ontario Professional Fire Fighters Association.

Mr Fred LeBlanc: Good afternoon and thank you for the opportunity to address this committee. My name is Fred LeBlanc and I'm president of the Ontario Professional Fire Fighters Association. With me today are Ron Gorrie, OPFFA executive vice-president, and Jim Lee, assistant to the general president for Canadian operations of the International Association of Fire Fighters.

The OPFFA and the IAFF represent over 9,000 full-time firefighters in the province of Ontario. I think it's worth noting that the FFAO, which made a deputation to this committee previously, only represents one third of the volunteer firefighters in Ontario while they lead us to believe they represent all of the volunteers in the province.

Our objective today is to set the record straight based on facts and to disclose the problems with being a two-hatter, relying on two-hatters and the problems with the legislation before us, namely Bill 30.

Two-hatters, as we all now know, are full-time professional firefighters who also act in the capacity of a volunteer or a paid on-call firefighter. For the purposes of my presentation I'll be utilizing the title of "paid on-call" as it is a more accurate description given the fact the these individuals are paid, in some cases in excess of, $28 per hour for their volunteer work, which is the case in Whitchurch-Stouffville.

Bill 30's introduction is as a result of misunderstandings, false accusations and a deceptive hysteria. The accusations and assumptions launched by AMO and the FFAO, that our organization's goal is to eliminate all paid on-call firefighters, are completely and unequivocally untrue. As well, the fear of huge tax increases is based solely on replacing all of these members with full-time firefighters.

For the record, our position, which is located in tab C of our brief, has been and continues to be focused only on our members who are two-hatters and not all paid on-call firefighters. As well, our position states that municipalities should replace these individuals with either new paid on-call or full-time firefighters, if required, based on local needs and circumstances.

Fighting fires continues to be recognized as one of the most dangerous occupations. The Fire Protection and Prevention Act, 1997, under part IX, section 43, states that the maximum hours of work are not to be more than 48 hours a week; as well, that our time off duty shall be free from fire department activities. These provisions obviously identify the Legislature's intent to recognize the physical and mental fatigue, as well as the effects of cumulative stress, that can accompany our occupation, thus necessitating the need for time away from our work environment. The act, by the way, is located at tab D of our brief.

Bill 30, the FFAO's and AMO's position would encourage full-time firefighters to continue to be or to become two-hatters and essentially be a firefighter 24 hours a day, seven days a week. We assert that this would be putting these firefighters, our other members and the communities they serve at an even greater health and safety risk. It is obvious that Bill 30 directly conflicts with the Fire Protection and Prevention Act in this regard.

The effects of being a two-hatter are many. There is the health and safety risk, as I previously mentioned, and WSIB implications. A two-hatter increases their exposures to the cancer-causing agents and occupational disease that are ever present in our job. The WSIB has recognized many forms of cancer as a result of being a professional firefighter.

Benefit entitlements: there are still many questions surrounding what benefits our members or their families would be entitled to if they were seriously injured or killed while responding as a paid, on-call firefighter, and maybe, most importantly, who pays for it?

There has been much discussion surrounding our constitution. Our constitution is a document governing our affairs and has been democratically developed. This is no different than constitutions governing other unions, professional organizations and the three political parties represented here today. It is our position that all of the above have given themselves, through their constitutions, the right to discipline their members for varying reasons.

For our own members to actively engage themselves in similar work activities outside of their primary occupation, circumventing their own collective agreement or other full-time firefighters and putting themselves, other members and our collective positions at risk is unacceptable and is therefore prescribed as a violation of our constitution. This is no different than trade unions protecting their work from their own members working for cash and dismissing them from the union job as a result.

Specifically, two-hatting and its lack of acceptance is not unique to the fire service. In the political spectrum, you cannot be a politician at more than one level of government at the same time; thus you cannot be a political two-hatter. We believe it's hypocritical for this or any level of government to unilaterally circumvent our constitution in this regard when you discourage the same practice within your own vocation.

The Ontario fire marshal's role: considering the debate on this issue should have been focused on the impact to the fire service and public safety, I believe it is critical to realize the role of the Ontario fire marshal in this issue.

Despite today's presentation the fire marshal created a discussion paper in April of this year, and that's located at tab E. Our respective position papers were to be submitted, consultation sessions were to be conducted and a final report was to be created and given to the minister. To date we have not seen that final report.

As a result of the lack of a final report, I have relied upon the OFM's discussion paper for reference. I would like to focus on the "Survey Results, Analysis and Observations" found on pages 7 through 9, and the "Conclusions," on page 15.

The number of two-hatters was found to be less than 10% in the municipalities that were surveyed, and these are municipalities known to utilize the services of two-hatters. That figure was then extrapolated to determine a range of 600 to 1,000 possible two-hatters across the entire province.

With approximately 10,000 professional firefighters and 20,000 paid on-call firefighters in Ontario, two-hatters only represent 2% to 3.3% of all of the firefighters in the province and only 3% to 5% of all paid on-call firefighters. This illustrates the minimal impact two-hatters truly have on the fire service in Ontario.

On page 6 of this paper the town of Caledon, which made a presentation to this committee, is identified to have a high percentage of two-hatters, some 25% to 30%.

On the second-last bullet point on page 8 of the OFM paper it states—and I think this is a very important point—"In a very limited number of municipalities, an inordinate reliance on the services of two-hatters may be inappropriately delaying the hiring of full-time firefighters that may be justified because of community growth and development and the corresponding increase in the number and frequency of emergency responses."

I can only wonder, given this above statement, if this is why the town of Caledon is on the recently released fire marshal's list of municipalities being monitored for potential serious threats to public safety.

Is there a problem?

The Chair: No, continue.

Mr LeBlanc: OK. This clearly illustrates the heightened risk citizens will face when municipalities are en-

couraged to rely upon two-hatters and attempt to avoid providing proper levels of fire protection in their community.

This brings me to recent legislation introduced by the former Solicitor General, the Honourable David Turnbull: Bill 148, the Emergency Readiness Act, which requires municipalities and crown corporations to develop emergency plans for large-scale emergencies. Everyone in this room knows that large-scale emergencies do not restrict themselves to a municipal border. We all want and expect that when we need an emergency response it will be there.

With the reliance on two-hatters and Bill 30's encouragement, we will continue to see multiple municipalities relying on the same firefighter in their time of need.

My experience in the ice storm saw my department in Kingston recall all off-duty firefighters to respond to this emergency. If they were two-hatters and already committed to another community, where would the city of Kingston be? Conversely, what happens to those rural areas that have admitted to depend heavily on two-hatters and do not have their experience and leadership in their greatest time of need? This is a dangerous manner in which to base an emergency response.

It is our contention that Bill 30 directly contravenes the intent of Bill 148 and will prove to be a threat to public safety.

In conclusion, on page 15, the fire marshal's paper, under the title "Conclusions," states "that there is no immediate threat to public safety, but a serious potential threat does exist in municipalities that are heavily dependent on two-hatters to provide fire protections services. A sudden widespread withdrawal of two-hatter services would have varying degrees of repercussions to these municipalities."

Two points: this coming from the office responsible for public safety as it relates to the fire service clearly indicates that the imminent threat to public safety simply does not exist; rather, the true threat is a heavy reliance on two-hatters.

As well, the fire marshal only speaks to a sudden withdrawal. We have advocated for the phasing out of two-hatters. This allows municipalities the necessary time to recruit, train and replace the two-hatters with either new paid on-call or full-time firefighters based on their own local needs and circumstances.

Under these circumstances there is absolutely no threat to public safety. Previous deputations have pointed out that the fire service is a local responsibility. This application has been supported by this government, with the language in the FPPA and the reluctance to become involved in determining protection levels.

Two-hatters and their local impact are no different. It is ironic that these same municipalities that do not want government intervention to determine levels of service, as we have witnessed with the recent opposition to the fire marshal's 10-in-10 staffing guideline, now want intervention to allow them to attain full-time firefighters for part-time prices.

Bill 30 is problematic with its intent to unilaterally remove freely negotiated closed-shop and membership clauses, as well as an organization's right to discipline. This may have wide-ranging implications and leaves room for possible legal challenges.

Bill 30, as I've previously identified, conflicts with existing and pending government legislation, with the FPPA and hours of work and Bill 148 respectively.

Bill 30, in our opinion, certainly will create huge morale problems within our membership and their respective departments. This was also a major concern for the Ontario Association of Fire Chiefs.

Considering all the foregoing, we strongly believe that Bill 30 infringes on our rights as a professional association and will ultimately harm the fire service, and will result in a true threat to public safety. We request that this committee reject Bill 30 in its entirety.

The Chair: Thank you, sir. We have about a minute and a half.

Mr Arnott: Thank you very much for coming in. It's good to see you again, Fred. I wanted you to have the opportunity to have your say even though we disagree.

I want you to know that I have the highest regard and respect for all our firefighters in the province—I do—but I feel that in this instance you're wrong, and that's why I brought the bill forward.

You've talked in your conclusion about the fire marshal's recommendations, but I'm sure you heard his presentation here today, because you were here in the room. He—

Mr LeBlanc: I think it's ironic that he is now shifting his position.

Mr Arnott: Well, I think he has listened to what has been said to this point and has concluded, I think—

Mr LeBlanc: Yeah. No consultations except for one day have occurred, Mr Arnott. That's the problem.

Mr Arnott: I think he would conclude that Bill 30, in principle, is something that is necessary at this time, and most recently as a result of your October 1 letter, in which—

Mr LeBlanc: I'm glad you brought up my October 1 letter. That's as a result of the FFAO and AMO adamantly saying there's no reason to continue with consultations and reasonable dialogue with this issue, so there was no reason for me to try to restrict my members' rights. Since October 1, there has not been one charge laid in the province of Ontario.

The Chair: Any further comments or questions? Mr Levac, very briefly. Members do have to get up to vote.

Mr Levac: Thank you, Mr Chairman, for your latitude. I will be very brief.

Do you believe that government financial support is necessary for firefighting in the province of Ontario, for hiring?

Mr LeBlanc: Absolutely.

Mr Levac: Thank you.

The Chair: On behalf of the committee, I wish to thank the Ontario Professional Fire Fighters Association.

We are adjourned.

The committee adjourned at 1753.

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Clerk / Greffière
Ms Susan Sourial

Staff / Personnel
Mr Avrum Fenson, research officer,
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Tuesday 22 October 2002

Journal des débats (Hansard)

Mardi 22 octobre 2002

Standing committee on justice and social policy

Volunteer Firefighters
Employment
Protection Act, 2002

Comité permanent de la justice et des affaires sociales

Loi de 2002 sur la protection
de l'emploi des pompiers
volontaires

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON JUSTICE AND SOCIAL POLICY

Tuesday 22 October 2002

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE ET DES AFFAIRES SOCIALES

Mardi 22 octobre 2002

The committee met at 1528 in room 151.

VOLUNTEER FIREFIGHTERS EMPLOYMENT PROTECTION ACT, 2002

LOI DE 2002 SUR LA PROTECTION DE L'EMPLOI DES POMPIERS VOLONTAIRES

Consideration of Bill 30, An Act to amend the Fire Protection and Prevention Act, 1997 in order to protect the employment of volunteer firefighters / Loi modifiant la Loi de 1997 sur la prévention et la protection contre l'incendie afin de protéger l'emploi des pompiers volontaires.

The Chair (Mr Toby Barrett): Good afternoon, ladies and gentlemen. Welcome to yet again a regular meeting of the standing committee on justice and social policy, Tuesday, October 22.

I'd like to introduce to members of the committee Marian Johnston, who is Clerk Assistant and also Clerk of Committees for the Legislative Assembly of Prince Edward Island.

This afternoon we consider clause-by-clause, Bill 30, An Act to amend the Fire Protection and Prevention Act, 1997 in order to protect the employment of volunteer firefighters.

I will mention as well that in the Legislature we did acknowledge the passing of volunteer firefighter April Hopkin.

I now ask members of the committee, and I say this pursuant to standing order 78: are there any comments or questions or amendments to any section of the bill, and if so—

Mr Ted Arnott (Waterloo-Wellington): Mr Chairman, I have an amendment.

The Chair: OK. I'll start with Mr Kormos and then Mr Arnott and Mr Levac.

Mr Peter Kormos (Niagara Centre): I understand we're going to be dealing with amendments that have been—and Mr Arnott was very courteous in making sure that I had a copy of his amendment at the earliest opportunity. I appreciate that. But I am concerned, because I see these wonderful faces across from me, all dear friends, but I see new faces today that weren't here during the course of submissions to the committee. And then I see that Mr Guzzo, who was an astute questioner and observer during the committee hearings, is not here.

I'm wondering if the clerk could advise us—because I know that Mr Levac has been here throughout the last two days, now into the third day, accompanied from time to time by some of his colleagues—I wonder if the clerk could tell us who was sitting on the committee for the Conservatives during the course of the last two days of public hearings.

The Chair: OK. I'll turn to the clerk. The question is—and I know we have a number of members with substitution notices. Mr Kormos, do you wish to know the original membership of this committee?

Mr Kormos: Yes. Well, the people who were sitting on this committee for the government on days one and two of the hearings around this bill, when we were hearing public submissions. Please.

Clerk of the Committee (Ms Susan Sourial): On October 15: Mr Barrett, Mr Kormos, Mr Hardeman, Mr Levac, Mr Arnott and Mr O'Toole. On October 21 there was Mr Barrett, Mr Kormos, Mr Guzzo, Mr Hardeman, Mr McDonald, Mr Patten, Mr Arnott, Mr Levac.

Mr Arnott: Mr Chairman, I think Mr Kormos has raised an interesting question; however, is there anything out of order with members being substituted into committees? I don't know of anything that would be out of order with members being substituted in.

Mr Kormos: No, of course not. It wasn't a point of order; it was a question.

Mr Arnott: Sure.

Mrs Margaret Marland (Mississauga South): Mr Chair, I think if we start that provision in terms of when we reach a point where a bill is to finally be debated, amendments made and so forth, if we made it a requirement that members heard all the public input, it would be a very dangerous precedent.

I chair the legislative assembly committee. We're in the process of writing our report. And for most of the public hearings, there was not a member of the New Democratic Party present whatsoever for the public input. I simply would say, with respect, since I am one of the people being subbed in today, that I did have the opportunity yesterday, fortunately, to watch some of the proceedings of this committee on television.

Second to that, I've discussed the input of both sides of this debate with members of my own caucus. So I'm well prepared to say that I am able to sit as a full committee member today, even though it's not a requirement. If we made it a requirement that members were here for

all public hearings on all bills and all resolutions, this place would grind to a halt, as the member—

Mr Kormos: That wouldn't offend me.

Mrs Marland: —for Thorold well knows, because it's very difficult, especially with a small caucus like the NDP caucus, to find people to cover committees. So while he asks the question, he's not suggesting a precedent, I hope.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): I think he's going to withdraw his concern.

Mr Kormos: No. I'll refer to it down the road.

The Chair: Anything further?

Mr Kormos: Thank you, Chair. No, not at this point.

The Chair: I'll now go to Mr Arnott.

Mr Arnott: Mr Chairman, I have an amendment to Bill 30 that I would like to put forward for the committee's consideration.

I move that sections 56.1 and 56.2 of the Fire Protection and Prevention Act, 1997, as set out in section 1 of the bill, be struck out and the following substituted:

"Voluntary firefighters

"Job protection

"56.1 (1) Despite any other provision of this act or any collective agreement, no association of firefighters shall, directly or indirectly, require an employer to take any of the following steps for any of the reasons set out in subsection (3):

"1. Refuse to employ a person as a firefighter.

"2. Terminate a person's employment as a firefighter.

"3. Refuse to assign a person to fire protection services under this part.

"Representation

"(2) No association of firefighters shall, in the representation of a person who is a firefighter, act in bad faith or act in a manner that is arbitrary or discriminatory for any of the reasons set out in subsection (3).

"Reasons

"(3) The reasons referred to in subsections (1) and (2) are:

"1. The person has been denied membership in an association of firefighters because he or she has worked, is working or intends to work as a volunteer firefighter.

"2. The person has been suspended or expelled or otherwise disciplined or penalized by an association of firefighters because he or she has worked, is working or intends to work as a volunteer firefighter.

"3. The person has engaged in reasonable dissent within an association of firefighters with respect to his or her work or intended work as a volunteer firefighter.

"Complaint

"(4) A person who believes that subsection (1) or (2) has been contravened may complain to the board, and in that case the Labour Relations Act, 1995 applies, with necessary modifications."

The Chair: Thank you, Mr Arnott. Any discussion or questions?

Mr Dave Levac (Brant): Before I do ask a specific question, I would like to provide Mr Arnott some—if he has notes or explanation or rationale for the amendment, I'd rather hear that first so I don't duplicate what he would probably cover.

The Chair: Yes. Anything further, Mr Arnott?

Mr Arnott: I want to say I appreciate Mr Kormos acknowledging that I endeavoured to share my proposed amendment with him, to show my respect and courtesy for the opposition—I used to serve in opposition and I remember what it was like—and to give you whatever advance notice I could.

Had the subcommittee decided to have a week's interval, for example, between the conclusion of the public hearings and the commencement of the clause-by-clause, we all would have had a little more time to put it all together. But now we certainly have an opportunity to discuss the amendment that is before us.

Mr Kormos: On a point of order, Mr Chair: It was the committee, with the Conservative majority, that approved the request by the subcommittee and in effect ratified it. So please, Mr Arnott, it wasn't the subcommittee; it was your members who approved the structure of this committee.

Mr Arnott: If the committee had modified the subcommittee's report to create a week's interval, we would have had a little more time, but we don't, and here we are.

Mr Kormos: If your members had.

Mr Arnott: And I'm glad we're all here to have a chance to debate this amendment.

We had two days of public hearings, and we had quite a significant number of presentations packed into two afternoons of hearings. I thought that the presentations were very helpful to me as a committee member moving the bill, and I tried to consider the points put forward. As a result, and with the assistance of legislative counsel Cornelia Schuh—I want to express my appreciation publicly in front of the committee members for the good, diligent work she did last night and today to get us to the point where we are discussing an amendment.

This amendment essentially and effectively deletes section 56.1 of the act, which is part of section 1 of the bill.

Mr Kormos: It rewrites your bill.

Mr Arnott: It maintains and continues much of 56.2, which is really the essence of the bill, the principle of the bill, which was intended to protect salaried firefighters who also work as volunteer firefighters, to protect their employment so that they could not lose their employment as a result of any action by a firefighters' association.

So part of section 1 is effectively deleted.

Subsection 56.1(2) of the act would then be incorporated, largely, into 56.2, I understand. There is some change in the wording, as Mr Kormos pointed out in his interjection, but I think it further clarifies the objective I set out when I introduced the bill, and it's pretty straightforward.

The Chair: Thank you, Mr Arnott. Mr Levac?

Mr Levac: Thank you for that opportunity. I too want to indicate that Mr Arnott approached me in the House today and provided me with a copy of the amendment

and indicated that he would have liked to have gotten that to me much quicker. I appreciate the opportunity he's provided in terms of at least giving us a copy of this.

Substantially it does change the bill. It basically rewrites the bill to address some of the issues that were indicated by a deputation that there were deep concerns that the bill, as it was originally written, was going to be putting its hand inside a constitution of an association and telling them whether they can or can't discipline anybody.

Now, if I'm reading this correctly, Mr Arnott, does this mean that you're now looking at the employer more directly—that they cannot refuse employment, they cannot terminate, they cannot refuse to assign—by making this amendment?

1540

Mr Arnott: What line are you looking at, Mr Levac?

Mr Levac: It's 56.1, the three bullets. If I'm reading that right, an employer cannot take those steps.

Mr Arnott: "No association of firefighters shall require an employer, directly or indirectly, to take any of the following steps...." As this was explained to me—this would be by legislative counsel when we were discussing how we could accomplish this—this would make it somewhat narrower. It would free the municipalities to act on these reasons and the association would not have the power to require the municipality to take these steps.

Mr Levac: Is the implication right now that the associations have the authority to go to an employer, a municipality, and say, "You can't hire this guy"?

Mr Arnott: They could attempt to make that happen, as I understand it.

Mr Levac: They can attempt to make that happen. I'm asking if they—

Mr Arnott: Without Bill 30, you know, they would—but this accomplishes the same thing.

Mr Levac: It's important to ask the question, because it sounds like you're saying the association has the authority to go to a municipality and tell them they can't employ anybody in particular, as opposed to an association having the authority in its constitution to discipline a member. The implication is that the association has the authority to go to an employer vis-à-vis the municipality and say you cannot hire somebody. Quite frankly, that does not exist. So the changes you're proposing in 56.1 are specific to the employer; is that correct to assume?

Mr Arnott: Again, it says, "Despite any other provision of this act or any collective agreement, no association of firefighters shall, directly or indirectly, require an employer to take any of the following steps for any of the reasons set out in subsection (3)."

Mr Levac: My train of thought will then move to reasons, if I can follow up on that. In terms of 56.1, the three refusals, I'm still understanding that originally we cannot make the assumption—and I'm just making this as a statement; if it has been, it's been erroneous to say so—that associations have the authority to go to a municipality and tell them they can and can't hire anybody, because that's not the case. It was characterized as such by one presentation that basically said that the unions shouldn't be dictating to us what we should and shouldn't do. It's not the unions that were doing it, and we have be very clear on that. The associations were not going to municipalities and saying, "You can't hire that person." They don't have that authority. In their constitution they have a right to discipline a member. What happens as a result after that is up to the municipality or the province to deal with in legislation. I want to make that perfectly clear.

The reasons referred to in subsections (1) and (2), in terms of the discipline, are, "The person has been denied membership in an association of firefighters because he or she has worked, is working or intends to work as a volunteer firefighter."

Am I assuming that this legislation is saying that if the association decides that a member shall lose their membership as a result of a piece of their constitution that says they can't work as a two-hatter, that's the essence of why the municipality can or can't employ that firefighter? Is that what the implication is?

Mr Arnott: I'm not sure I follow your train of thought. Could you repeat the question?

Mr Levac: Yes. In essence, what we're saying here is that in the association is discipline of a member who is a two-hatter is allowed under their constitution. That discipline can vary, because that what's discipline does. It goes from one point to another point. Inside of that discipline, the reading of this is that if the employer is aware that a person has been denied membership because of a discipline imposed by their constitution for solely "has worked, was working or intends to work as a volunteer firefighter," they would be disciplined. Is it the employer's right to provide that discipline?

Mr Arnott: I wonder, Cornelia, if I could ask you to address that question. It's just a point of clarification, really, about the wording.

Ms Cornelia Schuh: Let me repeat the question, as I understand it, to be sure that I've got it right. Are you asking whether the employer, the municipality, would be able to discipline a firefighter or take other steps because the firefighter had been disciplined or penalized by the association?

Mr Levac: Correct.

Ms Schuh: This doesn't speak to that at all. If the employer is otherwise permitted to take those actions as a matter of labour law, and I don't know the answer to that, then that's fine. This does not impact on that at all.

Mr Levac: So there's an implication that the denied membership is solely on the fact that they are a two-hatter or they might be a two-hatter. Somewhere down the line they think that this person might decide to volunteer as a two-hatter. Therefore, the association can't discipline this person if they think they might become a volunteer.

Ms Schuh: The wording of the motion doesn't say that. It doesn't comment at all one way or another on what the association's freedom of action might be.

Mr Levac: But the problem I have with this is there's an assumption built into part 1 of reasons in subsection (3). There's an assumption there that (1) denied membership is explicitly in volunteer firefighting; (2) that they intend to become a volunteer firefighter. Can you respond to the concern that I have regarding the future kind of claw-in that we seem to be saying here?

Ms Schuh: I'm sorry, I'm not following exactly your concerns.

Mr Levac: It might be that I'm reading this wrong; I'm not sure. But if I'm looking at this, it says, "The person has been denied membership in an association of firefighters because he or she has worked, is working or intends to work as a volunteer firefighter." Is the assumption there that the association knew that somebody might be volunteering as a volunteer somewhere down there and disciplined them and—

Mrs Marland: Is your concern, Dave, that the employee would no longer be protected under their collective agreement because the association no longer accepts them as a member?

Mr Levac: Part and parcel, but the reality is that then the employer comes on the hook for not taking any disciplinary action or the other things at the front, one, two and three, as a result of a possible membership in the volunteer service. It's pre-empting an assumption that the association was disciplining the member because they might be a volunteer somewhere in the future. I find that troubling.

Mr Arnott: What word troubles you, the word "intends"?

Mr Levac: "Intends to work as a volunteer firefighter." That whole section is quite bothersome, Ted, because what you're doing there is making an assumption (a) that the association is going to be disciplining a member before they even take the action; (b) we assume that the person is going to be a volunteer and it's the only thing that's going to get them disciplined.

The Chair: Mr Gill, did you have a point of clarification?

Mr Gill: I just wanted to ask a question. Maybe it's going to solve part of that. Maybe somehow by discussion we might find an answer. Is it implied that before a firefighter is hired, they must join an association?

Mr Levac: It's a law, it's not implied.

1550

Mr Gill: OK. If, on the other hand, they are working, they are members of the association and they are volunteering part-time in another community, can the association ask the employer to have them fired?

Mr Levac: They can ask all they want, but they don't have authority to do so.

Mr Gill: What has been the actual reality in the past? Have they been fired?

Mr Levac: I don't know these answers.

Mr Gill: I'm just asking. Maybe we're going to get some answers out of it.

Mr Arnott: Could I address that?

The Chair: Mr Kormos, did you want to address this particular issue?

Mr Kormos: Yes. Mr Gill, bless you for getting to the pith here, because this is part of the problem. This is such an incredible dance in the fog. We have been told of only one instance where a local utilized article XV here in Ontario; I think it's 2036, if that's the Whitby local number. The matter is still pending. We were told, and I have no doubt about the information we received, that it could be subject to any number of appeals on up through the hierarchy to the head office of the IAFF. That's the only illustration we've ever had of the Ontario Professional Fire Fire Fighters Association as a member of IAFF invoking article XV in terms of seeking discipline. We have no idea what the outcome of that will be—none whatsoever. This is why I find this whole exercise to be somewhat peculiar, and I will speak to it more later.

The whole business of constitutionality, the argument about charter rights, I find, with all due respect to Ms Schuh—and Mr Levac was making it very clear that he finds it similarly obtuse, vague and peculiar in terms of addressing a problem that isn't a problem—because we didn't hear anything from anybody about this being a problem. We heard one instance of article XV being invoked, which hasn't come to fruition yet. I don't know.

Mr Gill: At what number does it become a problem? Is one too many or should it be 10 people disciplined or whatever? I don't know.

Mr Kormos: People are talking about firefighters losing their jobs. Nobody's told us there's a single firefighter losing their job. If somebody knows about it, say so.

Mr Arnott: We can debate the substance of the bill again, as we did at second reading, if Mr Kormos wants to engage in that. But certainly there have been a number of instances brought to my attention where letters have been sent threatening charges if people didn't quit. You may have seen the letters—if you haven't, I can certainly share them with you—where threats have been made that if two-hatters didn't quit their voluntary service, steps would be taken by the union to charge them.

Mr Kormos: That article XV was going to be invoked.

Mr Arnott: There is certainly one example of where that has happened. The individual came forward and had an opportunity to address the committee. I'm glad you were here to hear his presentation.

Mr Kormos: I, unlike some of the government benchers, was here through both days of presentations and listened to everyone carefully.

Mr Arnott: As was I.

Mrs Lyn McLeod (Thunder Bay-Atikokan): I don't want to turn this into procedure, but I'm unaware of a way in which you can actually move an amendment which strikes out the only two substantive clauses of a bill. So my first question is whether or not the amendments are in order, as written.

The Chair: I'll ask the clerk to answer that question.

Clerk of the Committee: Yes.

Mrs McLeod: They are in order? Because the amendments strike out both sections of the bill, other than the day on which the title will be proclaimed. Right?

Clerk of the Committee: Yes.

Mrs McLeod: So if it's in order, and I may be pleased that it is, it seems to me—let me try to get down to the nub of it too. I apologize for not having been able to be here yesterday for clause-by-clause when you might have gotten into some more of the detail of this, but I've been following it along pretty closely. It looks to me as though all the words in your amendment, which replaces both your clauses in your original bill, essentially take out the issue of disciplinary action, which was 56.1, and replace it with a lot of words that essentially say you cannot be fired for being a double-hatter. Is that a fair condensation?

Mr Arnott: That's my understanding. Thank you for the clarity of your question. I think that's what I'm trying to do with the amendment, yes. That was certainly my request of legislative counsel, and I think that's what we have here in front of us, plus an enforcement mechanism. That's the other thing, the final thing, that is completely new, an enforcement mechanism, point (4).

Mrs McLeod: Which you consider to be 56.1(1)?

Mr Arnott: No. Point (4).

Mrs McLeod: The complaint process.

Mr Arnott: That's right.

Mrs McLeod: Then my question is, if what you're trying to do with this is to deal with a fundamental concern of the firefighters' association, which is the way in which 56.1 interfered with their right to deal with their own membership in this whole aspect of disciplinary action, is that the issue that you're—

Mr Arnott: Disciplinary action short of expulsion from the union.

Mrs McLeod: Right. So that's the fundamental concern that they raise that you're attempting to address with the amendment?

Mr Arnott: I'm not going to characterize their fundamental concern, because they might not agree.

Mrs McLeod: OK. I heard that as a fundamental concern. It was a concern for us.

Mr Arnott: That was what I heard.

Mrs McLeod: It looks to me as though you're trying to address that issue. Is that fair?

Mr Arnott: I think it's fair to characterize it that way.

Mrs McLeod: And you've agreed that what we're basically left with with your amendments is 56.2, with now, you say, a complaints mechanism in part (4), which is new.

Mr Arnott: Yes, but we've also included 56.1(2) of the bill, if you look at the bill, which is the issue of fair representation.

Mrs McLeod: But that's where I now have a new problem with the amendment. I'm really appreciating your effort to respond to concerns that you were hearing, but it seems to me that in 56.1(2) and (3), you've added a whole new set of things which haven't been part of the discussion up till now, and I don't know how to deal with those at this stage in the game. Because it looks much more specific, it looks more circumscribed than what you had in 56.1, but it could be equally as much an intrusion in the constitution of the firefighters' association.

Mr Arnott: I don't think it is, but effectively it does the same, or what you characterized at the outset. What we're trying to do is protect their employment rights, ultimately.

Mrs McLeod: Then why go so far beyond it as to keep all of this in (2) and (3), which begs the kind of discussion that Mr Gill has just engaged in?

Mr Arnott: All of this in (2) and (3)?

Mrs McLeod: Yes.

Mr Arnott: Again, that gets into the issue of fair representation, which is in the original bill, 56.1(2): "Same: No association of firefighters may reject for membership or refuse to provide representation to a person who is employed on a salaried basis by a fire department solely because the person also works as a volunteer firefighter."

So it ensures that there will be fair representation of the individual who is double-hatting. The union is compelled to fairly represent—

Mrs McLeod: Then why not leave 56.1(2) as it was? What were you trying to achieve with this expansion of that?

Mr Arnott: I've been advised that there was a concern about—and quite frankly, there was a press release from the Ontario Professional Fire Fighters' Association that said they felt there was a constitutional issue here. In fact they've levied, if I'm not mistaken, a $6 levy on all their members, or it's a few dollars, to create a legal fund to challenge it with the Supreme Court of Canada; and they indicate in the press release that that is their objective. So I'm advised that this would be more likely to be within the Constitution Act, that it wouldn't offend the Charter of Rights. That's what I've been advised by legislative counsel.

Mrs McLeod: But it may be equally as intrusive and therefore equally as offensive to the professional firefighters' association.

Mr Arnott: Again, it may be, but they've had their opportunity to speak—and I know that they're here—but there's no mechanism for them to speak again. I would say that if we'd had more time, if there had been a stipulation that amendments be filed by a certain date, I would have certainly attempted to honour that time frame and tabled my amendments with the clerk. There may have been time for opposition members who had copies from the clerk to share those with interest groups, if they had chosen to do so, to seek their advice, but unfortunately that is not going to be possible, I don't think. I think that's happened in practice, but we just haven't had as much time, perhaps, to consider them.

1600

The Chair: Continue, and then I think we go to Mr Kormos after this.

Mr Kormos: I'm tired of this particular discussion. I really am. Mr Levac isn't, though.

Mr Levac: I'm not. There are a couple of questions, but I will be very brief with them, Ted, more for clarification than anything else.

Can you explain to me what is "engaged in reasonable dissent"?

Mr Arnott: Where are you looking?

Mr Levac: Sorry. Section (3) of "Reasons."

Mr Arnott: That, I believe, is similar wording to what is in the Labour Relations Act. I would ask the advice or clarification of legislative counsel at this point, but I think that's similar wording to an existing provision in the Labour Relations Act.

Ms Schuh: That's correct. It's from section 51 of the Labour Relations Act, subsection (2), clause (e), which is a provision that superficially looks a bit like the one in the motion and refers to reasonable dissent within the trade union. The intention was to convey exactly the same meaning, however that is being interpreted. That reference to reasonable dissent within the trade union in the Labour Relations Act is what we're picking up here.

Mr Levac: Is that defined in that act?

Ms Schuh: No.

Mr Levac: So a board, arbitrator, would make the decision as to what constituted—

Ms Schuh: That's right.

Mr Arnott: If there was a complaint that somebody wanted to take forward, it would be heard by the Ontario Labour Relations Act, in section 4. I suppose the Labour Relations Act would have to define that based on precedence and other previous decisions.

Mr Levac: As to what constitutes reasonable dissent?

Mr Arnott: It would seem to me to be worded in such a way it sounds like fundamental rights and freedom of speech and so forth in a democratic society.

Mr Levac: I would again question the wording of "intends to work" as to how we can prejudge somebody's intent to become a two-hatter, and assume that there's going to be discipline before it even takes place.

Mr Arnott: It may be that it is there to ensure that there is no pre-emptive strike, if you want to call it that; no pre-emptive action if there is a belief or understanding that someone chooses or is planning to undertake a volunteer position within a local fire department where they may live. If there's a pre-emptive step taken by the association, this would, again, protect that individual and enable them to have the right to volunteer.

Mr Levac: That's enough for me.

The Chair: We'll wrap that up. I'll go to Mr Kormos, not on this discussion.

Mr Kormos: I would like to ask Mr Arnott, because I sat through, as he did, the two days of submissions, which of the submissions generated this amendment?

Mr Arnott: I would say that the overall two days that I heard, I worked with legislative counsel and tried to achieve the original objectives of the principle of the bill in a way that would be reflective of the opinions that I heard. I've also listened to the—there's no real specific, I suppose. It would be the overall two days of hearings that gives me the—

Mr Kormos: Again, you might have heard different from me, Mr Arnott, but I listened to and read everything that the participants—and I can't think of a single one that provided comment that would provoke this amendment. Can you?

Mr Arnott: If you look at some of the presentations that took place Monday, yesterday and last week, they weren't all specific in terms of their suggestions. For example, the office of the fire marshal, I think, surprised everybody when they came in and indicated support for, if not Bill 30, they appeared to me to be indicating support for the principle of Bill 30. The fire chiefs association, the same thing.

Mr Kormos: I think what surprised people about the fire marshal was that they threw in the towel so quickly on negotiating a resolution.

Mr Arnott: I think they were involved in an effort to try to bring the parties together. Certainly, it's AMO's view, and I think it's quite accurate, AMO doesn't have the right to compel or impel any of its members to do anything. They try to advocate on behalf of the consensus position that they hear from the municipalities in Ontario, but they can't force any course of action on any of their member municipalities. Those member municipalities are governed by elected councils, as you know as well as I do.

There was a good-faith effort to try and see if there was any common ground. The position of the fire marshal was that if indeed a negotiated solution could be found, legislation would not be required; I think he's in a good position. He also talked about the need to protect public safety in all the communities in the province, not just some, and for that reason indicated support in principle for a legislated solution somewhat like Bill 30. I think that's a fair characterization of what he said.

The Chair: Any further discussion on this amendment? No further debate? Are the members ready to vote? We're voting on an amendment by Mr Arnott. All those in favour?

Mr Kormos: Chair, it's "Shall the motion carry?" which prompts either carry or no, and then you put, "All in favour?" Then I'll say no. That way the record indicates that it wasn't unanimous. If you simply say, "Shall it carry? All those in favour? All those opposed?" and then you say it passes, it implies that there was unanimity.

Mr Arnott: Mr Chairman, are we not in the midst of a vote?

Mr Kormos: That's why the Chair—shush.

Mr Arnott: Mr Chairman, are we not in the midst of a vote?

Mr Kormos: That's why the Chair says, "Shall the motion carry?"

Mrs Marland: Are you challenging the Chair?

Mr Kormos: No, I'm just trying to be helpful to the Chair. He hasn't done this as often as some other people.

Mr Arnott: You can't interrupt when the vote has been called, Mr Kormos.

Mrs McLeod: There has to be agreement for a recorded vote.

The Chair: There doesn't have to be. If anybody does want a recorded vote—

Mrs McLeod: But you have to allow an opportunity to call for it.

Mr Kormos: I'm trying to help you. Work with me, not against me, Norm.

The Chair: So what's the phrase, again? I asked, "Are the members ready to vote?" Maybe I could ask, does anyone wish a recorded vote?

Mrs Marland: No. You called the vote. We're in the middle of the vote, Mr Chair.

Mr Kormos: "Shall the motion carry?" You hear the Speaker do it every day.

Mr Gill: And you always say no.

Mr Arnott: There are different ways of asking for a vote, but we're in the midst of a vote, Mr Chair.

Mrs McLeod: I'm sorry, Mr Chair, there has got to be at least some modicum of democratic process here. You call a vote. If there is a unanimous yes, then you don't have an opportunity to call for a recorded vote because you don't need it. You call for a vote. If there is a no, you call for for and against, and we may call for a recorded vote at that point. But if you don't take the two questions, there's no opportunity to call for a recorded vote. So you have to do it.

The Chair: I'm trying to do my best here. I'll ask the clerk for the best phrase to initiate the voting. As I was saying, Mr Arnott has moved an amendment. Shall the amendment carry?

Mr Kormos: No.

The Chair: All those in favour?

Mrs McLeod: Could we have a recorded vote, please?

The Chair: A recorded vote.

Ayes

Arnott, Gill, Marland, Miller.

Nays

Kormos, Levac, McLeod.

The Chair: I declare the amendment carried.

Moving on, there's an amendment to create a new section.

1610

Mr Levac: I move that the bill be amended by adding the following section:

"1.1 The act is amended by adding the following section:

"Meetings on issue

"56.3(1) Commencing on the first day of the month after the Volunteer Firefighters Employment Protection Act, 2002 receives royal assent and ending on last day of the sixth month after the Volunteer Firefighters Employment Protection Act, 2002 receives royal assent, the fire marshal shall ensure that the issue of salaried firefighters who also work as volunteer firefighters be the subject of twice-monthly meetings in order to resolve issues relating to and arising from salaried firefighters also working as volunteer firefighters.

"Participants at meetings

"(2) The fire marshal shall ensure that meetings under subsection (1) include representatives from the Association of Municipalities of Ontario, from organizations representing volunteer firefighters, from trade unions representing salaried firefighters, from the fire marshal's office and from such other parties as, in the opinion of the fire marshal, have an interest in the issue.

"Report to minister

"(3) No later than the first day of the seventh month after the Volunteer Firefighters Employment Protection Act, 2002 receives royal assent, the fire marshal shall report to the minister on the progress that is made at the meetings in resolving the issues relating to and arising from salaried firefighters also working as volunteer firefighters.

"Transition

"(4) The Volunteer Firefighters Employment Protection Act, 2002 shall not be proclaimed into force until after the fire marshal reports to the minister under subsection (3)."

By way of explanation, Mr Chair, we heard the other day in deputation that there was actually one meeting. The fire marshal has indicated, with some response back in writing, that he had made the decision that no further negotiations could resolve the issue. I personally have been involved in negotiations with associations over many years. The first meeting that takes place does not constitute the actual positions that may or not be gained at the end of those consultations or those negotiations.

I'm very disappointed to find out that the fire marshal had only sat in one meeting. The date he referred to in his deputation was the August 1 meeting. I subsequently asked him if there were any other subsequent meetings as a result of the bringing together of the stakeholders, and the answer was no. Quite frankly, I was very disappointed to find out that meetings, in the plural, did not take place. Negotiations do not get resolved in one meeting.

Having said that, I'm concerned about the bill, as I've indicated to Mr Arnott. But I'm also concerned that the stakeholders who were involved did not get to the table. It's amazing what negotiations can do when you get more than one meeting taking place and more positions being provided.

The fact is, the fire marshal, I submit, should be responsible for instituting several meetings to ensure that something can be discussed. I would suggest that we should be supporting this amendment to provide everyone who is directly affected by this issue with the opportunity to get to the table.

The idea that one meeting can be held and then everyone can proclaim failure is not acceptable in my vocabulary. I strongly suggest that we support this

amendment, if indeed the majority on one side decides that this bill is going to pass. Negotiation is an important tool not only in unions, but with municipalities. It's important with everybody who does everyday life stuff. You need to negotiate. You need to sit down and get to the table and hammer out some stuff. Quite frankly, that's not been done and I'm disappointed. So I really urge you to support this amendment.

Mr Arnott: Thank you, Mr Levac, for bringing this issue forward. I had to pick up a copy of the amendments on that table over there because I didn't have a copy, but I think one of our members had a copy of the amendments early on. I'm just now looking at it and listening to what you have to say.

I would question whether this amendment is in order, first of all, because it seems to be outside the scope of the original Bill 30. Of course, if it is deemed to be outside the scope of the original Bill 30, it would not be in order. I was going to ask the Chair and clerk to rule whether or not this amendment is in order.

Mr Kormos: Can I speak to that, Chair? I'm worried that it's maybe too late. A motion is either in order or it isn't. You call upon the Chair to rule it out of order when it's introduced. We've gone well beyond that point. The Chair is deemed, I submit to you, to know what is in order and what is not. There's been substantial debate, quite frankly, on the amendment.

Mr Arnott: He just read the amendment.

Mr Kormos: Too bad, so sad. The rules are there for everybody to follow, and I'm putting to you, Chair, that the point at which somebody calls upon the Chair to rule an amendment or a motion in order is when the motion is being made.

Mrs Marland: Which is exactly what happened.

Mr Arnott: I didn't have a copy of the amendment.

Mr Kormos: The motion was made. It was read on to the record. If somebody is going to ask for it to be called out of order, you do it then. You don't wait until debate has already commenced. The Chair is deemed to know the rules, and the Chair did not act on it.

Mrs Marland: On a point of order, Chair: Hansard will show that this amendment has just been read. There has not been any debate. It has just been placed before this committee. I would also point out that the member whose bill is before this committee did not receive a copy of this amendment. At this point the amendment has not been debated. It's been presented, rightfully, by Mr Levac. That's the point we were at. There hasn't been an opportunity to do anything else except clarify whether the amendment is in order. We had to hear the amendment to know what it contained and now we've asked if it is in order.

Mr Levac: A further point of order, Mr Chair: I also want to point out that the subcommittee and the committee as a whole decided that there were not going to be any dates and times by which amendments had to be presented, which implied to me that at the last minute, as they showed up—unfortunately, I did not have these prepared until the last minute. To maybe make an assumption that we're just all stuck in a void here is not a fair one.

Quite frankly, the problem that arises right now is that I did enter into an explanation. Once you introduce an amendment, my understanding is, you have an opportunity to explain, and I was recognized by the Chair to continue to do that.

Mr Kormos: A quite lengthy explanation.

Mr Levac: I wasn't that verbose, was I?

The Chair: Just a moment, committee members, please. I wish to continue with debate. As Chair, this amendment is in order. I wish to continue with debate.

Mr Arnott: That was just a question, and I appreciate your clarification on that, Chair.

In terms of debate on this amendment, I would refer back to the fire marshal's presentation, of which I have a copy. I'm not sure, Mr Levac, if you have a copy.

Mr Levac: I certainly do, Mr Arnott.

Mr Arnott: There was an outstanding chronology of what happened over the course of recent months with respect to this issue, and the fire marshal took a very proactive role. I know, Mr Levac, that you are well aware that the fire marshal is a non-partisan individual who is a public servant, and I know you would not want to criticize him. I also know that his statements yesterday were in support of a legislated solution to this issue. He was very clear as to his belief that there was a gulf between the positions put forward by the stakeholders and that in his considered opinion, there was absolutely no hope of a negotiated solution.

I can just refer you to a couple of things he said in his presentation yesterday: "There simply was no common ground for agreement on a non-legislated solution.... It is our opinion that an enforceable and sustainable non-legislated solution to the two-hatter issue is not achievable."

He talked about the October 1 letter that the Ontario Professional Fire Fighters Association president sent out to his members lifting the moratorium on charges. He said, "The lifting of the moratorium will likely exacerbate the existing tension and uncertainty in both the fire service and municipal communities, and is unclear to what extent and degree this action will impact on existing two-hatters."

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In conclusion, he was very, very clear that he did not believe that a non-legislated solution was achievable or enforceable. I know that the opposition parties will want to pay particular attention to his professional opinion on this: "We need to develop a legislated solution that clearly protects the interests of public safety, and it's important that career firefighters who wish to serve as part-time or volunteer firefighters in their home communities are permitted to do so without fear of loss of employment."

Mr Levac: In response, there are three points I want to bring to Mr Arnott's attention a couple of times, because of the importance of his use of the fire marshal's deputation.

First of all, he proceeds to say that negotiations are not going to go anywhere, and then he turns around, in the very same deputation, endorsing the legislation. You have to think of why he said, "No, you can't negotiate this." Is it because, "I want to turn around and say I can support the bill"? That might be one way to look at it as well.

The second thing I want to bring to your attention very clearly is that in the letter we all received from the minister when he was invited to attend, it said "I will be sending the fire marshal to represent the government." When I asked the fire marshal that very same question, he said, "I'm here to represent the fire marshal's office." I have a problem with the inconsistency of those two statements.

The third thing I want to bring to your attention is that one meeting—and I'll repeat it: one meeting—does not constitute negotiations. He may have been going through and talking to one group at a time. He did not get all the stakeholders in the same place at the same time to discuss the issue but once. That's not negotiation. This amendment is trying to provide a solution to a long-standing problem that needs debate, that needs the stakeholders at the table to discuss the issues. To bring them together once does not constitute good negotiations.

The Chair: Any further discussion? Seeing no further debate, shall I put the question? We're dealing with a Liberal motion on page 3. Shall this motion carry?

Mrs Marland: Recorded vote.

The Chair: All those in favour?

Ayes

Kormos, Levac, McLeod.

Nays

Arnott, Gill, Marland, Miller.

The Chair: I declare this motion lost.

Seeing no further amendments to section 1, shall section 1, as amended, carry?

Mr Levac: Recorded vote, please.

The Chair: All those in favour?

Ayes

Arnott, Gill, Marland, Miller.

Nays

Kormos, Levac, McLeod.

The Chair: I declare section 1 carried.

Mr Levac, you have an amendment?

Mr Levac: If I'm getting this right, according to the clerk, we move to page 2 of the package I sent. It's section 0.1.

I move that the bill be amended by adding the following section.

Mr Arnott: On a point of order, Mr Chair: Can I question whether or not this amendment is in order?

Mr Levac: Can I put it on the record first?

The Chair: I'll check with the clerk just to make sure. This amendment to create a new section is in order.

Mr Levac: I move that the bill be amended by adding the following section:

"0.1 The Fire Protection and Prevention Act, 1997 is amended by adding the following section:

"Municipal review of funding for volunteer firefighters

"3.1(1) A municipality that relies in whole or in part on a fire department that includes volunteer firefighters shall annually review its expenditures for volunteer firefighters and the affordability of the use of volunteer firefighters to ensure that appropriate funding is provided to support the volunteer firefighters.

"Municipal support for professional development for volunteer firefighters

"(2) If a municipality relies in whole or in part on a fire department that includes volunteer firefighters, the municipality shall ensure that adequate funding is provided for the training and professional development of the volunteer firefighters and that appropriate insurance is maintained when a volunteer firefighter is being trained or is undertaking professional development.

"Provincial review of funding for volunteer firefighters

"(3) The minister shall annually review on a province-wide basis expenditures made on volunteer firefighters and the affordability of the use of volunteer firefighters to ensure that appropriate funding is provided to support the volunteer firefighters."

I think that's it.

The Chair: I'll ask for discussion. Mr Levac, did you wish to continue?

Mr Levac: Yes, I do. I was just ensuring that I wasn't off-page. I apologize for the delay.

Time and time again we heard, during the two-day deputation and many, many times before the actual hearings, that municipalities were concerned about the costs involved in providing these services if two-hatters were removed from the province of Ontario. The more I asked this question, the more answers I got that made it quite evident that municipalities are strapped. With the exercises that have been taking place in downloading and some of the other issues that municipalities now face in terms of their costs, they have to reprioritize and reshuffle their expenditures. In my opinion, what has happened is that the province has been able, with the introduction of this bill, possibly to escape spending money for the hiring of volunteers and professional firefighters. Quite bluntly, we're getting 50-cent dollars for firefighters because it's the law, but because it's not stated in law that it's a service that needs to be provided, firefighters are not hired by municipalities, supported by 50-cent dollars from the province of Ontario.

I believe a review of that funding needs to take place on an annual basis. Quite frankly, the province needs to review its expenditures on fire departments that rely on volunteers. I would ask you to support the amendment simply because it says you're going to put your money where your mouth is.

Mr Arnott: I would submit that this amendment is completely out of order in that it's a completely different issue that's introduced to the—

Mr Kormos: You tried that once.

Mr Arnott: No, this is completely different. In the previous round, I asked for an opinion. I would submit to you, Mr Chair, that this introduces a totally different issue, outside the scope and intent of the original bill. The original bill is very simple—one page. It tries to provide employment protection for the two-hatters, those who are full-time professional firefighters and also want to be volunteer firefighters. This brings in money issues involving compelling municipalities to do certain things. It's totally and completely different.

The Chair: I'll go to Mrs McLeod, but I will remind you that I did indicate that this amendment is in order.

Mr Arnott: And I respect you, Mr Chairman. If you are firm in that ruling—I respect your ruling, obviously, but I suppose I would point out that most municipalities on an annual basis would review their capacity to deliver firefighting services in their community, I would think. I'm sure Mr Levac would not want to criticize municipalities in the sense that they don't do this already. In most cases, that I'm aware of anyway, small municipalities that have volunteer fire departments pay for those fire departments out of their local tax dollars. The property taxes they collect go to providing the service. That is certainly in the budgets of the majority of the communities I represent.

If Mr Levac is calling for a provincial funding program to assist municipalities in that endeavour, that may very well be his position and it may be the position of other members of the Legislature. But again, I don't see that that is an issue relevant to the bill.

1630

Mrs McLeod: I can appreciate why the government members would be very uncomfortable with this amendment, because it really does speak to the crux of the intent of the bill that Mr Arnott has presented.

I have followed the submissions that have been made and I have followed the government members' arguments in favour of continuing with the bill. It seems to have been premised, according to their words, on public safety. The act is entitled An Act ... to protect the employment of volunteer firefighters. If the issue that brought this bill forward is really an issue of public safety for the government members, then surely an amendment that speaks to ensuring adequate support for the volunteer firefighting force, including their training, would not only be seen as being in order but would be seen as absolutely essential to supporting the public safety concerns of maintaining a volunteer firefighting force.

The fact that the government is uncomfortable and clearly not going to support the amendment says to me that the real motivation of this entire bill is to maintain largely unpaid volunteer, but professionally trained, firefighting forces. It's a money bill, as you've presented it. The resolution attempts to make sure that the money supports true public safety, if you're going to proceed with this.

Mrs Marland: Actually, I think that's an unfortunate comment in the way of describing this bill. This bill is about giving the same opportunities for employment in this sector as a full-time firefighter or, frankly, as a volunteer firefighter.

The Municipal Act, as I'm sure the Liberal members opposite would know, requires municipalities to have fire protection. It may well be that through a volunteer force, for which there are expenses now that a municipality already assumes as part of their responsibility within their budgets—frankly, I think this amendment slams at the fire marshal and the municipalities that already do a very professional job of reviewing and allocating their resources, and I certainly know very well personally the work and dedication of volunteer firefighters. To suggest that municipalities don't ensure the safety of the public where a volunteer fire resource is the only resource they have is a criticism of that municipality and, more importantly, of the people who volunteer. I think it's an unfortunate criticism of volunteer firefighters.

To start taking a position about what a municipality shall or shall not do with their budgets would be an enormous intervention and I would suggest might begin a very interesting, unwanted precedent in terms of provincial overview that is already assigned through the Municipal Act to municipalities bearing certain responsibilities. The next thing would be saying what they need to do for any of their employees. Even though they're volunteers, what you're suggesting, apart from slamming the volunteers, makes a municipality assign resources which, as far as you may or may not know, already are assigned. I'm not in favour of this amendment.

Mrs McLeod: I'll respond only because Mrs Marland's comments appear to be particularly directed to me. I do have a number of volunteer firefighters in the riding I represent. I am confident that those volunteer firefighting forces would be maintained without Mr Arnott's bill being passed, but I am also aware that the people who work on those volunteer firefighting forces feel very much the need for support for training and other forms of support, which their respective municipalities simply cannot afford to provide. Therefore, I think Mr Levac's motion speaks to the public safety that volunteer firefighters can provide.

Mrs Marland: Mrs McLeod is suggesting that municipalities may not be able to afford training. I would not want to make that criticism of municipalities. I too have experience with municipalities and with volunteer firefighters. To suggest there's an absence of training and to want to intervene at the provincial level down to the municipal level in terms of training and any other

resources—I couldn't believe that's the route you would want to go, especially since you have said you already have volunteer firefighters within your riding. Unless you want the province to take over everything, including the responsibilities of municipalities to protect their residents in terms of fire risk and other emergency services, I think you would start, as I say, a very dangerous precedent.

I think we're very fortunate in this province to have volunteer firefighters. Everybody knows what the main thrust of this private member's bill has been about. I think the bill is very creditable. A credit is due to all the homework and research the member for Waterloo-Wellington has done in bringing forward this bill as the opportunity due to him. I think he has used that opportunity to the benefit of all of us, frankly.

It's tremendously interesting that the Large Urban Mayors' Caucus of Ontario, LUMCO, passed a resolution supporting Bill 30. The reason it's interesting is that all those large urban mayors and their communities have full-time professional firefighting and emergency services departments, yet they, with all the weight of all the members who belong to professional associations in their municipalities, recognize the merit of Bill 30, to the point where one member, who happens to be the mayor of a municipality of 650,000 people, Mayor Hazel McCallion, spoke on the floor at the AMO meeting to 1,200 people publicly endorsing this bill and reporting the resolution that LUMCO had passed supporting this bill.

I find it very hard to understand how, when those people who don't have volunteer firefighters and who deal only with full-time professional firefighters and emergency services workers are saying this bill is a good thing because they recognize, through AMO, which represents—it used to be 647 municipalities, but I don't know how many we have in Ontario now; I know it's fewer because of amalgamations. Anyway, the large number of municipalities that AMO represents in this province apparently understand the merit of this bill and appreciate it and support it, and I'm very proud of that.

Mrs McLeod: Mr Chair, I think we're debating the amendment.

The Chair: Yes. Further debate on the amendment?

Mr Levac: First of all, to have the motives of the member sitting beside me questioned is absolutely bizarre. Second, the interpretation that the member opposite gives about what the amendment is trying to do or ask is absolutely false, at best.

The third point I wish to make is that this is about affordability and about a province that has decided, for the Emergency Measures Act, that municipalities will comply with certain standards across Ontario. To impugn me and the member beside me in terms of trying to put an amendment forward that makes people responsible for the safety and security of the people of Ontario, I take offence at.

If this amendment passes, we would probably have a better society and better-protected people. The province of Ontario has downloaded—and if you want to get into a discussion about it, you can ask them how they have shifted their spending. Ask them whether they spend more on housing and on social services and have spent actually fewer dollars per diem on firefighting. There are many forces across Ontario that are not getting enough money to do the job to keep us safe and secure. So asking for a review of the process between municipalities and the province is not only in line, it is absolutely about time. Our firefighters deserve that so they can do their job.

If you don't support this amendment, you're telling us that you think the scope Mr Arnott is talking about is simple. The reality is, it is not simple. We heard deputation after deputation—when I wrote to members from the municipalities and asked them, "Why are you supporting this bill?" they said, "Because we can't afford it if we don't." They can't afford it if they don't. That's the only reason—I won't say only—one of the key reasons why municipalities, big and small, are supporting this. It's got nothing to do with the actual safety and security. The argument that somebody throws out to say that by putting this in we're questioning the municipalities' desire to keep their citizens safe—it's got everything to do with the fact that municipalities can't afford your downloading exercises.

And now that this bill comes in place, it excuses you from having to pay for it and it also excuses the municipality from having to deal with it, which is another reason I come back to the original amendment saying, "Get to the table." You turned that one down because you know that if we got to the table, we could probably knock this thing off. But with one meeting, you can't.

This particular motion is another attempt to say that we need to get this out in the open and have everybody understand that we are sorely underfunded in terms of hiring firefighters. We are woefully short.

The Chair: Any further debate? Are the members ready to vote? Shall I put the question?

Mr Levac: A recorded vote, please.

Mr Kormos: As of right, pursuant to the standing order, a six-minute adjournment, please.

The Chair: A six-minute recess.

The committee recessed from 1643 to 1650.

The Chair: We're dealing with the Liberal motion, Mr Levac's motion. That's the amendment found on page 2, creating a new section. Shall the motion carry?

The Chair: Recorded vote?

Mr Kormos: It was a request. That's why we had the adjournment.

The Chair: All those in favour?

Ayes

Kormos, Levac, McLeod.

Nays

Arnott, Gill, Marland, Miller.

The Chair: I declare the motion lost.

I see another amendment.

Mr Levac: Mr Chair, I will bow to your clarification, either yours or the clerk's. If I'm not mistaken, because the original amendment I proposed was defeated, this would then become out of order.

The Chair: This is a motion on which page?

Mr Levac: On page 5 of the package. It was going to change section 2 of the bill. If I'm not mistaken, and I bow to your understanding and interpretation, because the first amendment I requested didn't pass, this becomes redundant.

The Chair: That's a good question. I'll ask the clerk. You're correct. That means this is out of order.

Mr Levac: I appreciate that, Mr Chair. Thank for your interpretation and ruling. So we would just go back to the sections and start to go through them?

The Chair: Yes. We'll now turn to section 2 of this legislation. I see no amendments to section 2. Any debate on section 2? I see no debate. Shall I put the question? Shall section 2 carry?

Interjections.

The Chair: I don't hear a request for a recorded vote.

Mrs McLeod: Well, you haven't called for yeses and noes yet.

The Chair: I did state, "Shall section 2 carry?"

Mrs McLeod: And we said no.

Interjection: And some said yes.

The Chair: All those in favour?

Mr Levac: Recorded vote, please.

The Chair: So that's when it comes in. All those in favour?

Ayes

Arnott, Gill, Marland, Miller.

Nays

Kormos, Levac, McLeod.

The Chair: I declare section 2 carried.

We now turn to section 3 of the legislation. I see no amendments.

Mr Kormos: I want to speak to section 3. Like some of the others on the committee, I listened and read and observed the submissions that were put to the committee over the course of the first two days. I also spent a considerable amount of time reading material that had been sent to us by any number of people, including somewhat voluminous correspondence. I also have spoken with professional firefighters and volunteer firefighters, not just in the part of the province where I come from but in other parts of the province as well.

As you know, I go back here not just to Bill 84 and the committee debate around Bill 84. I want to remind folks here and people who might be inclined to read this transcript that Bill 84 was the child of this government, the Conservative government. Bill 84, in my view, is in large part responsible for the considerable conflict that has arisen around this issue of double-hatters. I'd also remind people that I voted against Bill 84.

The issue has been characterized in so many ways, but for me, after listening to everybody and reading the material, I have to address it first from this very fundamental way: that this bill would interfere with the right of the Ontario Professional Fire Fighters Association to draft their own constitution, either in terms of active drafting or in terms of incorporating the constitution of their parent body, the IAFF, and in particular article XV.

You and most people who know me or know of me would know that I am a union supporter—an unashamed, unabashed, unqualified union supporter. I also recognize that the unions, certainly the unions I'm familiar with—and I'm probably familiar with every single union there is in this province, in this country—are essentially democratic bodies that arrive at decisions democratically. I am as well aware as anybody that from time to time, and perhaps more often than not, decisions are made by any number of unions that aren't popular with all the members of that union—no two ways about it. That's the nature of the beast. It's like democracy in the province of Ontario. I mean, every time there's a vote there are inevitably people in this legislative chamber who are unhappy with the result of that vote or the initiative or bill or policy that was just passed.

It was interesting to hear more than a little bit of comment from the advocates for double-hatters about article XV being a violation of those people's rights, even constitutional or charter rights. It was also interesting that we didn't receive one single submission by way of a legal opinion that would confirm that. In fact, Mr Guzzo—that's why earlier on in the afternoon I wanted reference made to the fact that he was here at other times and, for interesting reasons, isn't here today—questioned one submitter yesterday about legal opinion, and the response was a very vague, "Oh, yes, I have an opinion." I thought that would mean that that person would feel welcome to offer it up.

We are not the Court of Appeal. We're not the Supreme Court of Canada. If any individual member of the Ontario Professional Fire Fighters Association believes that article XV violates their charter rights, they have any number of avenues they can follow to contest article XV.

And let me go one further. I listened—and again it was interesting: we had but one double-hatter appear before the committee, and that was Mr Lee. I've got to tell you, I found his submission extremely passionate and extremely articulate—no two ways about it. I have no doubt that Mr Lee feels that an injustice is being done to him. I have no doubt about that whatsoever. That's clear. That's patent. That's obvious.

It impresses me that the majority of advocates for the double-hatting proposition were in fact municipalities who are the beneficiaries of the double-hatters. An interesting juxtaposition of comments came yesterday when a duo were making a submission. One proclaimed, "It's not about dollars and cents," but the other made it

quite clear that were double-hatting not permitted, "It would put us"—to wit, that municipality—"in a very difficult position financially."

I have no doubt that among some volunteer firefighters, there is some concern about the prohibition that might be contained in article XV of the IAFF constitution. I have no doubt about that whatsoever. I also found it interesting that there has only been one process initiated, and that was with the Whitby local with respect to Mr Lee, in the whole of the province. Others will correct me if I'm wrong, but I was left clearly with the impression that nowhere else, not among any number of not just hundreds but thousands of firefighters in this province, had there ever been a process initiated like that. This appears, in so far as I know, to have been the first of its kind.

It has not come to fruition yet. It's not finished; it's far from over. We heard it will carry on through a number of appeal steps within the union and through into the IAFF. We have no idea what the outcome will be. Quite frankly, I would see this as a wonderful opportunity for those who dispute the validity of article XV to challenge it on the basis of the Charter of Rights and Freedoms.

1700

I also observe that undoubtedly there are professional firefighters who want to volunteer in what would be their home community. Some, I have no doubt, would be motivated by the ability to make a few extra dollars. I have no quarrel with that; it's human nature. Others may well be motivated simply because they enjoy the fellowship and enjoy the participation in their community and their involvement with other volunteer firefighters. There is a special fellowship that takes place in the volunteer halls I'm familiar with, and I'm not talking about Saturday night upstairs; I'm talking about the genuine relationships and rapport firefighters have with each other, especially at the volunteer level.

The Ontario Professional Fire Fighters Association, like any other union or professional association, has multiple roles, has multiple objectives. One of its objectives clearly is to protect the interests of its members, but that is a broad thing. I support the Ontario Professional Fire Fighters Association in the course of their protecting their members' interests when it comes to negotiating salaries, when it comes to negotiating work conditions, when it comes to negotiating benefits, when it comes to negotiating health and safety. But the Ontario Professional Fire Fighters Association, like virtually every other union, doesn't see that as its sole role. Clearly, the Ontario Professional Fire Fighters Association has, as a part of its agenda, accepted a mandate to expand the number of professional firefighters across the province, has used collective bargaining and grievance and arbitration, as well as political lobbying, in an effort to establish minimum staffing standards.

I support all of those things, and I think any member of this provincial community who cares about not only community safety but firefighter safety—because it has a double role. Do you understand what I'm saying? Minimum standards not only mean those firefighters can serve the community but also mean they can do it in a safer way.

Like everyone else, I stood up and mourned the death of a young volunteer firefighter from up in the Sault Ste Marie area. All of us were saddened about that young woman. I made a point of referring to her as a firefighter; I wasn't about to qualify it. She was a firefighter who lost her life while she was pursuing her job. It's not enough just to mourn. I mean, we can mourn the dead, but let's fight for the living. The Ontario Professional Fire Fighters Association has done that, in my view, in an exemplary way. Quite frankly, a whole lot of their goals in the pursuit of adequacy of staffing, training, resources, also impact on volunteer firefighting services. There's a huge spin-off.

I'm familiar with communities that are 100% volunteer. I'm familiar with communities that are what I'd call hybrid but more accurately are called composite. I'm familiar with communities that are 100% professional. We received some information that there were a significant number of professional firefighters living, for instance, in the Whitby area, some 600, I'm told, with a relatively small professional firefighting service there in terms of the staffing, and a composite service: I have no doubt that it's far more attractive for the municipal leadership to control its municipal costs by hiring fewer professional firefighters and retaining more volunteers, especially when those volunteers are professional firefighters from the city of Toronto or Peel or what have you. It's only logic; it's only common sense. That was one of the recurrent themes that went through the submissions made to this committee by every head of those small municipalities.

I don't quarrel with their interest in utilizing scarce resources in terms of tax dollars; I understand that. But I say to you, it's got to be awful tough when the Ontario Professional Fire Fighters Association local representing the Whitby professionals sits down at collective bargaining time, when they're attempting to negotiate around wages and salaries, as they should, when they're attempting to negotiate around minimum staffing or even the proposition of hiring more firefighters, as they should. I have no doubt that it becomes all that much more difficult for them when the town of Whitby knows it can access any number of Toronto-based, Peel-based, wherever, professional firefighters who can provide literally professional-quality performance when they are out on the scene, be it a motor vehicle accident, a medical emergency or a fire, but do so at a marginal cost, maybe not so much in the hourly rate, because we've also learned that volunteer firefighters—not all of them—are being paid hourly rates that are starting to get pretty significant, but in terms of the cost of maintaining a full-time firefighter, not just the salary but the benefits and all those other things inherent in it.

For the life of me, I can't understand why anybody here would want to stand in the way of the Ontario Professional Fire Fighters Association's efforts to

improve the quality of full-time professional firefighting services. If anything, we should be facilitating them and encouraging them.

Quite frankly, I consider article XV to be consistent with the Ontario Professional Fire Fighters Association's mandate to improve the lot of its own membership, to expand the number of professional firefighters serving across this province and to promote objectives like minimum staffing.

I could well be wrong. Article XV, although there was nothing patent about it, could well be deemed down the road to be contrary to the charter. My background tells me that while article XV may be unattractive to some members who want to be double-hatters, it's not necessarily on its face a violation of the charter. But if it is, it's not for us to do that. We're not judges. It's for the courts to do that.

I have no doubt there would be any number of resources available to a double-hatter who wanted to challenge his union's right to invoke article XV, because I saw the interest of many people who purported to advocate for double-hatters. I don't think it's our job.

I regretfully but, as a supporter of the trade union movement, at the same time proudly have to tell you that I cannot and will not use my modest legislative capacity here to tell trade unions how to run their affairs, because that opens the door and starts us out on a slippery slope too, I tell you. If the Legislature starts telling a democratic association like a trade union how to construct its constitution, we can start telling other organizations, I suppose, be it Lions Clubs, Kiwanis Clubs or Rotary Clubs, be it other professional organizations. I say that's not our job. We have a Human Rights Code in this province, as we should, and we've got a Charter of Rights and Freedoms federally, as we should, and everybody's public conduct is tested against those. If the Ontario Professional Fire Fighters invocation of article XV of their constitution violates the charter, let that be litigated in the appropriate forum, not here.

Secondly, in terms of my experience with volunteer firefighters, I've been impressed by the fact that many young women and men join volunteer companies as an opportunity to test their aptitude and interest and perhaps to set some sort of track record for themselves so they can be considered for a professional firefighting service, either in that community or in an adjoining community.

My experience, especially in composite communities, certainly in some of them, is that there are scarcer and scarcer resources, where it's the volunteer force that is at risk. That's not the case in growing, expanding communities but in communities that have stabilized themselves. Quite frankly, the city of Welland is one of those communities where the volunteer companies feel very much endangered.

I put to you that if I were a volunteer, if I had that skill and aptitude and courage, I wouldn't want to have to compete with somebody who already has a professional firefighting position in some other community. I wouldn't want to be on a waiting list while somebody who already has a full-time professional firefighting job is part of the volunteers, using the spot I could be using to develop my skills to demonstrate to the full-time chief that I've got what it takes to be a full-time firefighter.

1710

I know there's been an incredible amount of emotional turmoil generated around this issue. I'm going to say what shouldn't have to be said, but there's nobody at this table or in this assembly who would denigrate either volunteer or professional firefighters. I'm impressed with the fact that the professional firefighters understand the important role that volunteers take. They have been very, very cautious, in all of their statements and arguments around this issue, to make it clear that they are not anti-volunteer firefighter. They understand as well as anybody how remote and small or wide-based communities with low tax assessments have no choice but to retain volunteers. Professional firefighters have indicated that very clearly. They understand that 100% volunteer companies are part of the culture of firefighting in this province. You probably could take any professional firefighting service and go back until at some point you'd encounter a volunteer firefighting service. It's part of the history of every professional firefighting service in the province and in the country.

But I tell you, it's regrettable that the fire marshal, after one meeting, concluded that the matter was beyond resolution. My modest familiarity with mediation and negotiation tells me that that is not how one pursues negotiations, least of all mediation, when you're in the position of the fire marshal where you're at the very least facilitating some candid exchanges between the professionals and the affected volunteers, the so-called double-hatters. I'm very disappointed about that.

I'm even more disappointed that the fire marshal then took what I perceive to be a partisan position. I have great respect for the fire marshal, I've got to tell you, but it's my view that it would have been preferable had he simply removed himself from the debate and stood aloof, because this has the capacity to cause ongoing rift and tension between professionals and their own brothers and sisters as volunteers.

I also very quickly want to indicate that while Bill 84 is undoubtedly part of the causation of this issue, the underfunding of municipalities in terms of their firefighting services is another important part of the source of the problem. Mr Levac, among others, has made frequent comment, and I join with him in his concern, our concern, what should be all of our concern, about the adequacy of funding of any number of municipalities, every single one of them, big, small, north or south, in terms of firefighting services, whether they're volunteer, composite or full professional. Yes, all of us should be advocating—and I would like to hear more from the government in this regard—for better funding for training of volunteers, for resources, for the proper equipment, and indeed, for those municipalities that have full-time professional firefighting services, for adequacy of staffing, and not just the adequacy of staffing but

ensuring that those staff receive the best possible training and the best possible resources to enable them to do their jobs.

I think it's clear that the New Democrats will not be supporting this legislation. We, as a party of labour, respect the right of trade unions, including the Ontario Professional Fire Fighters Association, to construct their own constitution and to do that, as they have, in a democratic way. Nobody was made aware—as my final comment, just as a secondary observation—of any effort within the Ontario Professional Fire Fighters Association to dump the IAFF or to dump article XV of the IAFF constitution. One would have thought that were this matter as serious as it has been portrayed by some, there would have been a movement within the IAFF—because that's what happens in any organization; political parties do it and even countries change their constitution—to delete article XV. We weren't made aware of any effort in that regard.

I think the Ontario Professional Fire Fighters Association, while its utilization of article XV may well anger, and clearly has, some of its members who want to be double-hatters, it's my view that the Legislature shouldn't be interfering in their utilizing that right they've created for themselves.

If that right's going to be tested, it should be tested in the proper forum, in the courts. If the membership of the Ontario Professional Fire Fighters Association is displeased with article XV, they should be starting a campaign within their own union, within their own association, to delete article XV from their constitution.

The Chair: We'll go to Mr Levac. I also have Ms Marland slated to speak.

Mr Levac: I will try to be as brief as I can, just to have a few summary remarks. I thank Mr Kormos for his views. Actually, I listened very intently to his understanding of how these matters work inside of an association. I appreciate his comments and listened carefully.

I want to start by expressing to Mr Arnott that as a member here I've gotten to know him a little—not a lot, but a little—enough to know that he's honourable, and his intentions I will not impugn. I have never done so and I won't do that, because that's not the purpose of this. He makes it very clear that he believes the association is wrong. I do not agree with his findings and I don't agree with the bill in its form. Even if amended, I would still be uncomfortable with the direction we as a committee would be going with this.

I would remind everyone that this is a private member's bill. At least, in terms of my satisfaction, a private member's bill will get its due. For that, I think he deserves to get credit, that he stirred enough involvement to—it doesn't happen enough; it certainly doesn't happen often with private members' business.

It does beg the question of why the government did not come forward with something like this. I don't know whether the government saw this on the radar screen. Quite frankly, when you introduced it, I think you would appreciate that quite a few people didn't know it was coming, and when it did come it created the discussion. I appreciate that part of it, and I appreciate the fact that your intent is not questioned. I want to be on the record as saying that.

There are too many unanswered questions regarding Bill 30. When I asked other people for an opinion, it ended up being a slug match. Unfortunately, that did not get us anywhere. It became some people making comments about the volunteers and other people saying something about professional firefighters. I had hoped we would be able to come up with logical, rational reasons why we could or couldn't support it.

That started to surface. Unfortunately, I truly believe that's how the debate should have continued. That, during the day, is what I was asking for in terms of making sure that all the stakeholders got to the table. By not allowing that to happen, I believe this discussion has been muted and the debate will not continue. It will simply be legislated material that stops something from happening as opposed to allowing the stakeholders to actually and truly get a grip on this, because we still did not provide it with the time I believe is necessary for us to come to a solution that would not cause any other undue problems.

I said to Mr Arnott once before that I believe this may indeed—and I hope I'm wrong—push things underground. Trying to legislate how associations can proceed with their membership may indeed do that, and I'm fearful of that. I will go on record, as he knows I did, that I do not accept intimidation from any sector. At the end of the day, I heard there were some intimidation tactics used on both sides, which I do not accept, and now there's a third side that's been introduced to this. Intimidation over what you can or can't do to somebody because they don't follow rules is not acceptable, in my opinion, and it should not occur.

I would suggest, though, that intimidation is different from applying your constitutional rules and regulations of what you have to abide by. I want to refer to the research we had done as a result of a question Mr Kormos brought up. We got this back from research regarding police officers. The section of the Police Services Act that deals with secondary activity is section 49. I won't read it into the record, but for those who want to look it up, read section 49.

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What's interesting are the comments made afterwards: the clause "might suggest that work for another force would be possible if it were arranged through the force of which the person involved was a member." That's an interesting comment, that if you're a member of a force and you want to go work for someone else, it's a possibility but it must be arranged through the force from which you're coming. What's more important: "The chiefs of the forces involved may not know about the double-hatting; it is apparently considered a problem by the policing services division of the Ministry of Public Safety and Security, and the matter is being looked at."

I'm not too sure that this is at odds with what is presently happening under this section of the public safety and security ministry. There are far too many unanswered questions that need resolution in an appropriate negotiated and mediated way. To reiterate, we might have one section of the ministry that takes care of policing that says, "That's a problem. We don't like that the cops could be doing something else in their private time as a double-hatter," but with this we're now saying we can. I want to hear what the ministry has to say about this.

There are too many unanswered questions. I thank the research department for that information.

This never has been, in my dealing with this, an issue of volunteer versus professional. Several times now, on the record, not only in this place but outside the House, in my own riding and across the province, I have spoken dearly about our volunteer firefighters and our professional firefighters.

The reality is that firefighting is a dangerous job, and their families go through the dangers day in and day out, so vividly pointed out by Mr Kormos today in this committee and by all three parties earlier in the afternoon about the death of one of the firefighters in our province of Ontario.

This has got nothing to do with whether we believe firefighters should be pitted against each other. It has everything to do with supporting and doing the best we possibly can to let them do their job to keep us safe and secure, and that's being done. I want to make sure people understand that.

For the record, I have been approached by many volunteer groups, in particular in my own riding. They are concerned that some of the arguments being laid in front of them have something to do with saying that professional firefighters could do a better job or bring more expertise to the table. They themselves told me that they were offended by that, that their volunteer force provided perfect training and they were happy with it. They were quite satisfied with the way they provided for their community. One of the things they said time and time again, along with many, many others, was that they were concerned about the stress on the municipal budget.

There are questions that beg to be answered. Why did the municipalities step forward to support this bill? Why did the amendment fail? We need to continue to ask those questions. Are we doing enough for our firefighters through our municipalities? At a provincial level the answer is no, we're not doing enough. I'm asking this government and this committee to make sure we send a message that we are not doing enough for our firefighters in Ontario.

I was very fortunate and honoured to be invited to go to New York for what I believe will be the last memorial service held regarding 9/11. People, firefighters, men and women, from around the world, went to New York to show their respect not only for the victims of 9/11 but for all fallen firefighters in New York through to October 2002. When those people's names came up, there was a 10-minute standing ovation for the fallen firefighters and their families.

This should be nothing more than a discussion of how we provide fire service in Ontario. It should not be a debate about urban versus rural. It should not be a debate about affordability. It should not be a debate about whether a two-hatter can do a two-hatter's job. It should be a debate about why the government of Ontario is not providing for fire services in terms of direct employment of firefighters in Ontario.

Don't talk the talk; walk the walk. I'm imploring the government to start providing for firefighters across Ontario, I will say in particular for the smaller communities, the small urban, the rural and the isolated communities in the province.

Thank you for your indulgence, Mr Chairman.

The Chair: Ms Marland, any further discussion?

Mrs Marland: Mr Chair, I would like to call the question.

The Chair: OK. I guess I would ask, any further debate?

Mr Kormos: Recorded vote.

The Chair: We're dealing with section 3. We have a request for a recorded vote. All those is favour?

Ayes

Arnott, Gill, Marland, Miller.

Nays

Kormos, Levac, McLeod.

The Chair: I declare section 3 carried.

Shall the long title of the bill carry? Carried.

Shall Bill 30—Mr Kormos, a point of order?

Mr Kormos: No. Debate.

The Chair: I shouldn't anticipate. Debate with respect to the long title?

Mr Kormos: No, with respect to the referral to the House.

The Chair: I'm coming to that. My question now is, shall Bill 30, as amended, carry?

Interjections.

Mr Kormos: Whoa, whoa.

The Chair: You had a question concerning reporting this to the House?

Mr Kormos: Each and every one of those motions is debatable, Chair, but we'll go to your next offering.

The Chair: I understood you to suggest that you wish to debate the last question, and the last question is, shall I report—

Mrs McLeod: I'm sorry. We really didn't complete the vote on Bill 30.

The Chair: Oh.

Mr Levac: As amended. We need to do that. Can we have a recorded vote, please?

The Chair: OK, a recorded vote. The question we're voting on, just to make sure I'm clear, is whether Bill 30, as amended, carries.

Ayes

Arnott, Gill, Marland, Miller.

Nays

Kormos, Levac, McLeod.

The Chair: I declare that passed.

The last question is, shall I report the bill, as amended, to the House? Discussion?

Mr Kormos: Thank you kindly. The bill clearly, in view of the Conservative majority, I anticipate is going to be reported back to the House. That then will begin the dance around third reading.

I simply want to make it very clear that the government has a majority, one of its members introduced this bill, and bills get presented for third reading when the House leader of the government calls them for third reading. They don't get presented for third reading as the result of some sort of clubby little arrangement between the three caucuses. They certainly don't get presented for third reading with agreement that there be no further debate. I just want to make it very clear to those who may be interested in this bill being pursued that if the government wants this bill to pass, it'll pass—it'll pass in a New York minute, speaking of New York, Mr Levac. But if the government doesn't want the bill to become law, the government House leader won't call it. It's not for opposition members to be told that they're preventing the bill from being called, because I want to tell you, Chair, no opposition member, even Mr Levac on his most rambunctious days, can prevent the government House leader from calling a bill for third reading. There's not a snowball's chance in hell of even Mr Levac preventing a government House leader from calling a bill for third reading.

So let's not have any of this game-playing around "So-and-so didn't let the bill be called for third reading." I have no control over what the House leader for the government calls or what he does in or outside of his office, and I dare to speak for Mr Levac in that regard too, that he has no control over what the House leader of the government calls, be he Mr Stockwell in or outside of his office and regardless of how late it is at night and where we are in downtown Toronto.

I just want to make that quite clear to those who might be interested in seeing where the bill goes next. It's not my bill. I've got my own bills in my own caucus to worry about. Call the government House leader.

The Chair: Just for clarification, I'll repeat the question. Shall I report the bill, as amended—

Mr Kormos: No. A recorded vote, please. That was efficient.

The Chair: Shall I report the bill to the House? I'll pose the next question: all those in favour? And we want a recorded vote.

Ayes

Arnott, Gill, Marland, Miller.

Nays

Kormos, Levac, McLeod.

The Chair: Carried. We're adjourned. Thank you.

The committee adjourned at 1732.

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Monday 18 November 2002

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Lundi 18 novembre 2002

Standing committee on justice and social policy

Government Efficiency Act, 2002

Comité permanent de la justice et des affaires sociales

Loi de 2002 sur l'efficience du gouvernement

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON JUSTICE AND SOCIAL POLICY

Monday 18 November 2002

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE ET DES AFFAIRES SOCIALES

Lundi 18 novembre 2002

The committee met at 1531 in room 151.

GOVERNMENT EFFICIENCY ACT, 2002
LOI DE 2002 SUR L'EFFICIENCE DU GOUVERNEMENT

Consideration of Bill 179, An Act to promote government efficiency and to improve services to taxpayers by amending or repealing certain Acts and by enacting one new Act / Projet de loi 179, Loi visant à favoriser l'efficience du gouvernement et à améliorer les services aux contribuables en modifiant ou en abrogeant certaines lois et en édictant une nouvelle loi.

The Chair (Mr Toby Barrett): Good afternoon, ladies and gentlemen. Welcome to this, the regular meeting of the standing committee on justice and social policy for Monday, November 18, 2002. We're here to consider Bill 179.

As the committee may know, there are three sections to the bill and 16 schedules, including A to P. As the sections enact the schedules, we should do the schedules first. I would ask for the committee's agreement. I appreciate that.

I would now commence. Are there any comments, questions or amendments, again, to these schedules?

Mr Peter Kormos (Niagara Centre): Yes. I am speaking very briefly to schedule A. Today, Tony Martin from the New Democratic Party caucus has been substituted for me as the voting member on this committee, but I have a particular concern about schedule A that compels me to attend here today, using my right pursuant to the standing orders to speak in particular to subsection 4(6) of schedule A, the amendments to the Courts of Justice Act.

I refer the members of the committee to numerous submissions that have been made by the Ontario Trial Lawyers Association and the Advocates' Society, amongst others, that bemoan the effect of subsection 4(6) of this bill which is, no two ways about it, to eliminate the right to jury trials for litigants in what I referred to as simplified procedure cases.

I want to tell you that the New Democratic Party agrees with the submissions that have been made to this committee by numerous members of the bar, including the Advocates' Society and the Ontario Trial Lawyers Association. This illustrates why it is dangerous to deal with legislation in omnibus bills, because so much is tucked away and it is oftentimes difficult for it to be properly addressed. It also indicates why it's dangerous for bills like this, or any bill for that matter, to go to a committee without there being an effective and thorough public process by way of public submissions. It's my view that before subsection 4(6) could even be considered, there would have to be thorough debate.

I want to tell you that New Democrats are strongly and adamantly opposed to the denial of the right to jury trial in civil litigation and we will be calling for a recorded vote and voting against this section.

I also know that at least several government members have demonstrated great sensitivity to this issue. I know they've made strong submissions to the minister and to their cabinet. It is my hope that the submissions made by these parties who have made their position known clearly in writing, as well as by the advocacy of several members of the government's own caucus, will have impacted sufficiently upon the government for it to reflect on subsection 4(6), the denial of jury trials, to the point where the government may be making it clear that the matter might be resolved without having to be defeated here at committee.

Mr Ernie Hardeman (Oxford): I just want to point out that I too have read all the submissions made on subsection 4(6), and I guess it's a great way to start off the debate on the clause-by-clause on Bill 179. I agree 100% with the member from the New Democratic Party. Because of all the presentations made and some of the concerns expressed by the member, we will be putting forward a resolution that this part of the act be struck out and not be approved today in the bill as it stands.

So I suppose, Mr Chairman, if you wish, I could read the amendment that we put forward to the committee into the record for further debate.

The Chair: If that is helpful for the committee, we'll do that right now.

Mr Hardeman: Subsection 4(6) of schedule A to the bill (subsection 108(2.1) of the Courts of Justice Act): I move that subsection 4(6) of schedule A to the bill be struck out.

Mr Kormos: Carried.

The Chair: Any further debate on the motion?

Mr Garry J. Guzzo (Ottawa West-Nepean): First of all, I was one of the individuals who took exception when I came across this in the bill. I want to make the point that it underlines a serious problem here. This was not

going to do what it was intended to do. The use of the jury in situations of $50,000 and less—never mind the rights aspect of it, whether a person suing for a small amount of money should have equal rights with a person suing for large amounts of money or corporations that might be suing for a large amount. Quite apart from that, this availability at the present time helps to curtail the lists and helps to speed up the process. It does not hinder it.

It's true that cases—the one in 40, the one in 60—that might go to trial last longer, I suppose, with a jury, but another 25 or 30 of that list are settled as a result of the use of the jury notice. It has always been thus and it's going to continue to be so. I think it underlines a problem in that someone does not understand the system and how it works in making this type of a recommendation. To slide it into an omnibus bill shows a lack of respect for what we're doing in the judicial system.

Mr Kormos: I want to commend Mr Guzzo for the role he played in convincing the government that this section was inappropriate. I'm convinced that it was a significant contribution to what we've been told has become the decision of the government by way of Mr Hardeman. I commend Mr Guzzo and look forward to the committee supporting the motion indicated by Mr Hardeman.

The Chair: Is there any further debate on this motion? Are the members ready to vote? I'll put the question.

We're dealing with a government motion to schedule A, section 4. Shall the motion carry? I declare that motion carried.

I'll explain to the committee, because we have now passed this motion under schedule A, section 4, we should now visit schedule A, sections 1 through 3. Does the committee wish to debate sections 1 through 3 under schedule A?

Mr Kormos: I'm conscious and well aware of the terms of this committee hearing. As I understand it, as a result of the time allocation motion, this committee has but 30 minutes—it began at 3:30 pm—to debate clauses, at which point all motions not yet made will be deemed to have been made. I stand to be corrected in that regard.

The Chair: That is correct.

1540

Mr Kormos: I appreciate you calling for debate and I'm using up scarce time now, but that means we have 20 minutes to debate a bill, that has appendices A through to P, that is 247 pages long. I want anybody who is inclined to read the Hansard of this committee hearing to understand that it's really somewhat farcical at this point. The prospect of any debate is really rather moot in that it's now 18 minutes to 4, and there are three caucuses here, all of whom have strong interests around any number of sections here. I appreciate the Chair is doing his job, but to call for debate, in the total scheme of things, is a little bit of an insult.

The Chair: I could ask the committee to defer the rest of this vote and continue with debate, if you wish to debate. I'll go to Ms Di Cocco.

Ms Caroline Di Cocco (Sarnia-Lambton): I understand that clause by clause takes into consideration each section and you debate it at each section. I understand that's the procedure. I was glad to see that the government members even saw that the amendment we had forward really did not belong in an omnibus bill.

There are a number of other sections that we certainly have some concerns with that deal with independent health facilities and with the Securities Act. There are some issues of transparency there that are being removed. In the committee system, I understood, a section would require some possibility for discussion at least to show that maybe it should not be in an omnibus bill because it is a substantive change.

The Chair: If the committee is willing, we could continue with debate on other issues and defer—

Mr Kormos: I also have a question. There are three people in the room whom I recognize: one is my staff person and one is one of our caucus staff people. Are all these some 30 people with binders that are multi-tabbed and with pens ready from the bureaucracy? Are they all civil servants and/or political staff who are here to witness what amounts to but 20 minutes of debate before all motions are put on a bill that's 245 pages long? If there are approximately 30 people, at salaries that I anticipate are around $1.8 million a year, sitting in this room right here and now for what will amount to a 15-minute debate on a bill that's 245 pages long—that may be totally irrelevant but I thought it was an interesting observation.

Mr Tony Martin (Sault Ste Marie): It's efficiency on steroids.

The Chair: Any further debate?

Mr Hardeman: I don't believe that the time allocated is appropriately spent by taking attendance of our audience, but I do think it is important that we are mandated to do a certain task here at the committee. It is a resolution that has been debated in the Legislature and I would suggest that we proceed with it as expeditiously as possible.

Mr Kormos: There are at least 30 civil servants in the room right now. Do you call this cutting red tape, Mr Hardeman? The debate can't last for any more than 15 minutes. There are hundreds of thousands of dollars a year in salaries sitting here, not because they want to but because they've been told to be here when there isn't going to be a debate. Is that cutting red tape? Is that efficiency?

The Chair: Further debate?

Mr Dave Levac (Brant): I was observing what's going on. I do understand what Mr Hardeman has indicated, that there are ways in which we have to proceed, and at the end of this debate we will proceed, whether we have put our issues on the table or not. Having said that, I would like to put an issue on the table.

I know we're not at that particular section but we're talking about debating issues, and one of them is the Escheats Act change that causes quite a lot of consternation in my riding, because we're dealing with brownfields right now, as are many communities in this

province. There needs to be an explanation as to how the changes in the Escheats Act are going to help our communities as opposed to having the government escape responsibility for properties that are given back to them, as the Queen's representative. We're deeply concerned about that, and I want to bring it on the record to indicate that the mayor of our city and councillors in our city have been in constant communication once Bill 179 was brought to light in this omnibus bill.

I would explain to the government that this is the type of legislation that affects communities in a very, very important way, and to have it literally buried in some 200-odd pages and have to have almost this microscopic view of this type of legislation again points to the problem that's being pointed out by everybody here, including the government side, who say that this is not the place for some of the types of legislation that are being proposed.

I hope, albeit faint hope, that a lesson would be learned. I only hope people understand that when these types of legislation come forward, it's virtually impossible to try to go through every single piece that affects your communities in the way that these do, that the separation of these types of bills is an utmost priority, so that the people sitting here, the people in everybody's offices, and the people in the municipalities, including those staff members who have to go through all the legislation the province passes, can be provided with an opportunity to make a logical, important contribution to this debate.

I would bring escheating to your attention one more time, that by doing so the government has fined these companies that are leaving our municipalities with these bloody brownfield sites, fining them hundreds and thousands of dollars and telling them, "You need to clean up that property," and now that they get escheated they're going back to the government, and then we turn around with legislation that says, "But when we take it over we don't want to have responsibility for cleaning it up." This is the type of legislation that should never be put into an omnibus bill.

Mr Hardeman: I just want to clarify. There are a number of ministry people here, and because there are a number of ministries involved in this bill it was deemed that there could possibly be some questions from the members of the committee on some of the sections of the bill, and we would have the expertise here to give the information, as required. We make no apologies for making sure that we did everything we could to provide as much information as possible as this bill was being debated. That's why they're here.

Ms Di Cocco: The section under the Independent Health Facilities Act that deals with the fact that the amendment that's in this bill is going to remove from the act the controls on the goodwill value of the licence of the independent health facility in the sale or transfer of the facility, that's been interpreted as two-tier health care by stealth.

Those controls were put in there as a way to prevent a health care facility licence from being used as a commodity, where a system would be there that it becomes a for-profit sector. Again, that's my interpretation of that section in there, and when I point to the other one, if someone wants to speak to that, I certainly would like an explanation.

The other one comes under the Securities Act. It's under the Minister of Finance. That section there talks about the board currently being appointed by the Lieutenant Governor in Council, but that's going to be amended. That section 4 authorizes the Minister of Finance to appoint the members of the Financial Disclosure Advisory Board. So my interpretation of that is that the possibility of being able to know who's been appointed there through the normal procedure, through the Lieutenant Governor in Council, is now taken away. By removing that, it's out of the purview of the Legislature to find out who's been appointed and to be able to call them to committee.

Those are two sections I've highlighted that are of great importance and as I interpret them, again, one deals with what I perceive to be two-tier health care by stealth, quietly putting in an omnibus bill something that fundamentally changes; and the other one has to do with board members to the Ontario Securities Commission being designated without being appointed by the Lieutenant Governor in Council.

Those are two main concerns I have, because one takes away transparency and the other one fundamentally goes to what could be perceived as two-tier health care.

1550

Mr Kormos: Because of the very short time frame—we have a maximum of 30 minutes in which to debate any amendments or any of the sections of this bill—I want to draw everyone's attention to NDP motions contained in the package of materials, pages 8, 9, 10. There are amendments to schedule J. When the time comes, there clearly won't be an opportunity to debate these. But I am encouraging government members in particular to notice that these are good amendments. They may well be amendments that the government members can bring themselves to support. I exhort them to do that.

I want to apologize for having been mistaken a few minutes earlier. There are not 30 civil servants in the room, there are 40, and there are another 12 standing outside. That comes to 52 civil servants, and by my rough calculation that's over $3 million a year in public sector salaries. The prospect of bringing all those hard-working, undoubtedly underpaid people to sit through this pathetic charade of a time-allocated debate, to sit here having been told that they might be asked questions when, in a mere 30-minute process, a fraction of them couldn't be asked questions, couldn't even introduce themselves in the time period allowed—there are over 50 of them—is an abuse of them. I apologize to those civil servants who have had to come here today, who work too hard for too little, under too much pressure and with too many bad bosses, to be exposed and subjected to this.

The Chair: Is there any further debate?

Mr Hardeman: Somewhat in answer to the question, I want to reiterate that there's nothing in this bill that would suggest anything other than a totally publicly accessible, publicly funded health care system. The changes suggested are that provision of services could be transferred from one provider to another and maintain the consistency and the quality of that service being provided. It doesn't make it available to any different people. It's the ability to provide it, that the provider could be different people. It's going to provide it as single-tier, fully accessible to all people of the province.

As to the other issue of the appointment of the chair of the securities commission, the intent was that the responsibility of the security commission is with the Minister of Finance. It was deemed more appropriate that it would be the Minister of Finance who would be responsible for the direct appointment of the chair of the committee rather than through an order in council, which would then be the cabinet that would make the recommendation. It seems more appropriate that it would be a direct appointment from the minister. There are many other boards and commissions appointed in a similar manner when the function is a direct responsibility under the purview of that minister. I think it's a process improvement, to make it more effective and efficient in the process, not to in any way take away the public's right to know who is being appointed. The public's right to know or the ability to know is exactly the same. Whether it's an order in council or whether it's appointed by the minister, it's a public appointment and it is publicly available to know that that appointment is being made.

The Chair: Is there any further debate? I draw the committee's attention to the fact that we did pass the government motion to section 4. Does the committee wish to vote on section 4? Shall I put the question to section 4, as amended? We're dealing with section 4 under schedule A. Shall section 4 of schedule A, as amended, carry? Carried.

Continuing with schedule A, if we could collapse sections 1 through 3, I would wish to put the question. We're dealing with schedule A, sections 1, 2 and 3.

Shall sections 1 through 3 of schedule A carry? Carried.

With respect to schedule A, we have before us sections 5 through 21. With the permission of the committee, shall I collapse sections 5 through 21 for purposes of voting?

Shall sections 5 through 21 of schedule A carry? Carried.

Shall schedule A, as amended, carry? Carried.

We'll go on to schedule B. Schedule B has 16 sections and two schedules, if I'm not mistaken. I would ask that we stand down the 16 sections so that we can vote on schedules 1 and 2 of schedule B.

Do you wish me to repeat that?

Mr Marcel Beaubien (Lambton-Kent-Middlesex): Yes, can you clarify that? You want us to stand down the 16 sections of schedule B so that we can vote on—

The Chair: I'll ask the clerk to clarify that.

Clerk of the Committee (Ms Susan Sourial): Schedule B has 16 sections and two schedules. Rather than doing the sections first, do the two schedules of schedule B—there's a schedule within a schedule. So do the schedules and go back and do the sections.

Mr Beaubien: OK. I get it.

The Chair: We are voting on schedules 1 and 2 of schedule B.

Shall schedules 1 and 2 of schedule B carry? Carried.

I would now ask the committee to vote on sections 1 to 16 of schedule B.

Shall sections 1 through 16 of schedule B carry? Carried.

Shall schedule B carry? Carried.

1600

It is now 4 o'clock. As per the time allocation motion passed by the House on Monday, October 28, 2002, "the standing committee on justice and social policy shall be authorized to meet for one day at its next scheduled meeting time for the purpose of" clause-by-clause "consideration of the bill; and

"That, no later than 4 pm on that day, those amendments which have not yet been moved shall be deemed to have been moved, and the Chair of the committee shall interrupt the proceedings and shall, without further debate or amendment, put every question necessary to dispose of all remaining sections of the bill and any amendments thereto. The committee shall be authorized to meet beyond its normal hour of adjournment until completion of clause-by-clause consideration. Any division required shall be deferred until all remaining questions have been put and taken in succession, with one 20-minute waiting period allowed pursuant to standing order 127(a); and

"That the committee shall report the bill to the House not later than the first sessional day that reports from committees may be received following the completion of clause-by-clause consideration. In the event that the committee fails to report the bill on that day, the bill shall be deemed to be passed by the committee and shall be deemed to be reported to and received by the House."

As it is now 4 pm, I will put the remaining questions. I'll just consult with the clerk to determine where we pick up.

I will now put the question to the committee. Shall sections 1 to 8 of schedule C carry? Carried.

Shall schedule C carry? Carried.

Shall sections 1 through 4 of schedule D carry? Carried.

Shall schedule D carry? Carried.

Shall sections 1 through 11 of schedule E carry? Carried.

Shall schedule E carry?

Shall section 1 of schedule F carry? Carried.

Now on page 2 of your package of amendments, we have a government amendment to section 2 of schedule F. Shall the amendment carry? Carried.

Shall section 2 of schedule F, as amended, carry? Carried.

Committee, on page 3 of your package of amendments, we have a government amendment to section 3 of schedule F. Shall this amendment carry? Carried.

Shall section 3, of schedule F, as amended, carry? Carried.

Shall sections 4 and 5 of schedule F carry? Carried.

Shall schedule F, as amended, carry? Carried.

Shall sections 1 through 8 of schedule G carry? Carried.

Committee, on page 4 of your package of amendments, we have a government amendment to section 9 of schedule G. Shall this amendment carry? Carried.

Shall section 9 of schedule G, as amended, carry? Carried.

Shall sections 10 through 16 of schedule G carry? Carried.

Shall schedule G, as amended, carry? Carried.

Shall sections 1 through 15 of schedule H carry? Carried.

On page 5 of your package of amendments, we have a government amendment to section 16 of schedule H. Shall this amendment carry? Carried.

Shall section 16 of schedule H, with this amendment, carry? Carried.

Shall schedule H, as amended, carry? Carried.

Shall sections 1 through 8 of schedule I carry? Carried.

If you turn to page 6 of your package of amendments, we have a government amendment to section 9 of schedule I. Shall this amendment carry? Carried.

Ms Di Cocco: Can I ask for a recorded vote?

The Chair: Yes. Any committee member can ask for a recorded vote once I put the question, certainly.

I will now put the next question: shall section 9 of schedule I, as amended, carry? Carried.

Shall sections 10 through 21 of schedule I carry? Carried.

Shall schedule I, as amended, carry? Carried.

Ms Di Cocco: You were so quick, I couldn't ask on schedule I.

The Chair: Schedule I? We just carried that motion.

Interjection.

The Chair: Yes, I did go rather quickly. With respect to schedule I, I'll put the question again. We have a request for a recorded vote. I'll ask again. Shall schedule I, as amended, carry?

Ayes

Beaubien, Guzzo, Hardeman, Johnson.

Nays

Di Cocco, Martin, Peters.

The Chair: I declare that schedule carried.

Shall sections 1 through 4 of schedule J carry? Carried.

If you turn to page 7 of your package of amendments, we have a government amendment to subsection 5(5) of schedule J, subsection 44(2) of the act. Shall the amendment carry? A recorded vote.

Ayes

Beaubien, Guzzo, Hardeman, Johnson.

Nays

Di Cocco, Martin, Peters.

The Chair: I declare that carried.

On page 8 of your package of amendments we have an NDP amendment to subsection 5(5) of schedule J, subsection 44(2.1) of the act. Shall the amendment carry?

Mr Martin: I thought this was being accepted as a friendly amendment by the government side.

The Chair: Mr Martin, there is no debate.

I declare that amendment lost.

Mr Martin: A recorded vote on that. Sorry.

The Chair: I may have been a little bit confused. I would entertain a recorded vote on the motion found on page 8.

Ayes

Di Cocco, Martin, Peters.

Nays

Beaubien, Guzzo, Hardeman, Johnson.

The Chair: I declare this amendment lost.

I'll explain to the committee that the two following NDP amendments, on pages 9 and 10, were dependent on the passage of the initial NDP motion. That did not happen, so these amendments do not apply.

We now turn to page 11 of the package of amendments. We have a government amendment to clause 5(12)(a) of schedule J. Shall the amendment carry? Carried.

Shall section 5 of schedule J, as amended, carry? Carried.

Shall section 6 of schedule J carry? Carried.

Shall schedule J, as amended, carry? Carried.

Shall sections 1 through 23 of schedule K carry? Carried.

Shall schedule K carry? Carried.

Shall sections 1 to 8 of schedule L carry? Carried.

Shall schedule L carry? Carried.

Shall sections 1 to 11 of schedule M carry? Carried.

Shall schedule M carry? Carried.

Shall sections 1 through 72 of schedule N carry?

Ms Di Cocco: A recorded vote.

The Chair: Did you want a recorded vote on that particular one? I will ask for a recorded vote. I'll ask the question again. Shall sections 1 through 72 of schedule N carry?

Ayes

Beaubien, Guzzo, Hardeman, Johnson.

Nays

Di Cocco, Martin, Peters.

The Chair: I declare those sections carried.

Shall schedule N carry? Carried.

Shall sections 1 and 2 of schedule O carry? Carried.

Shall schedule O carry? Carried.

Shall sections 1 through 33 of schedule P carry? Carried.

If we turn to page 12 of the package of amendments, you will find a government amendment to section 34 of schedule P. Shall this amendment carry? Carried.

Shall section 34, as amended, of schedule P carry? Carried.

Shall sections 35 through 46 of schedule P carry? Carried.

Shall schedule P, as amended, carry? Carried.

If you go back to the beginning of this legislation, the question: Shall section 1 carry? Carried.

Mr Martin: Could I have a recorded vote on these?

The Chair: We certainly can. A recorded vote. I'll ask the question again: shall section 1 carry?

Ayes

Beaubien, Guzzo, Hardeman, Johnson.

Nays

Di Cocco, Martin, Peters.

The Chair: I declare that carried.

Shall section 2 carry?

Mr Martin: Recorded vote.

Ayes

Beaubien, Guzzo, Hardeman, Johnson.

Nays

Di Cocco, Martin, Peters.

The Chair: I declare that carried.

Shall section 3—this is the short title of the bill—carry?

Mr Martin: A recorded vote.

Ayes

Beaubien, Guzzo, Hardeman, Johnson.

Nays

Di Cocco, Martin, Peters.

The Chair: I declare section 3 carried.

Shall the long title of the bill carry?

Mr Martin: Recorded vote.

Ayes

Beaubien, Guzzo, Hardeman, Johnson.

Nays

Di Cocco, Martin, Peters.

The Chair: I declare that carried.

Shall the bill, as amended, carry?

Mr Martin: Recorded vote.

Ayes

Beaubien, Guzzo, Hardeman, Johnson.

Nays

Di Cocco, Martin, Peters.

The Chair: Shall I report the bill, as amended, to the House?

Mr Martin: Recorded vote.

Ayes

Beaubien, Guzzo, Hardeman, Johnson.

Nays

Di Cocco, Martin, Peters.

The Chair: This committee is adjourned.

The committee adjourned at 1613.

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Also taking part / Autres participants et participantes
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Clerk / Greffière
Ms Susan Sourial

Staff / Personnel
Mr Michael Wood, legislative counsel

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Tuesday 19 November 2002

Journal des débats (Hansard)

Mardi 19 novembre 2002

Standing committee on justice and social policy

Legal Aid Services
Amendment Act, 2002

Comité permanent de la justice et des affaires sociales

Loi de 2002 modifiant la Loi
sur les services d'aide juridique

Chair: Toby Barrett
Clerk: Susan Sourial

Président : Toby Barrett
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STANDING COMMITTEE ON JUSTICE AND SOCIAL POLICY

Tuesday 19 November 2002

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE ET DES AFFAIRES SOCIALES

Mardi 19 novembre 2002

The committee met at 1530 in room 151.

LEGAL AID SERVICES AMENDMENT ACT, 2002

LOI DE 2002 MODIFIANT LA LOI SUR LES SERVICES D'AIDE JURIDIQUE

Consideration of Bill 181, An Act to amend the Legal Aid Services Act, 1998 / Projet de loi 181, Loi modifiant la Loi de 1998 sur les services d'aide juridique.

The Chair (Mr Toby Barrett): Good afternoon, everyone. This is the regular meeting of the standing committee on justice and social policy for Tuesday, November 19, 2002. We're here to consider Bill 181, An Act to amend the Legal Aid Services Act, 1998.

Mr Peter Kormos (Niagara Centre): On a point of order, Mr Chair: I, of course, received the government papers that purport to be amendments that have been tabled with the clerk. While I appreciate that pages 1 and 1(a) are in fact amendments, because they are worded as amendments, pages 2 and 2(a) aren't even amendments. I'm concerned because it's not a matter of whether it's an amendment that's in order or not; it's not even an amendment. I am troubled that the clerk would even receive those and distribute them; the fact that the government is foolish enough to file papers that aren't amendments as if they were amendments doesn't surprise me.

It appears they are marching orders to the government members, and in both official languages, to their credit, I suppose. It seems to me that if the government is going to give marching orders to its members, it should do it in a way that's somewhat sotto voce. Let's maintain some semblance here of members having independent minds and spirits. So I am asking the Chair to make quite clear that those are inappropriately filed with the clerk.

Mr AL McDonald (Nipissing): On a point of order, Mr Chair: I don't know what the member opposite is speaking of. We don't have those notes on our side.

Mr Kormos: Well, you should. You guys couldn't organize a drunk-up in a brewery. You don't even have your own amendments.

Mr McDonald: Mr Chair, we don't have the notes he's speaking of on this side, so I don't know what he's reading from.

Mr Ernie Hardeman (Oxford): Mr Chairman, we will all understand that there is a section of the bill that has had a considerable amount of consultation between the time it was sent to the committee and now. I believe the section the member opposite is referring to is a section that an amendment would have applied to by trying to amend the section. The action in fact would be that that part of the bill would be totally deleted. The action he's referring to is just that the way to amend the bill to satisfaction through the consultation is to eliminate that section. The note he would be referring to would accomplish that. So I would suggest that order of priority.

I agree with the member opposite that's not an appropriate amendment, so it should not have been circulated as an amendment. It should not have been given to the clerk as an amendment to circulate, but I believe no harm has been done. Obviously, it hasn't been put to the committee. I'm sure the Chair in his infinite wisdom will rule it out of order when we get to that part, because it is not an appropriate amendment, and we will proceed with the bill in that fashion.

Mr Michael Bryant (St Paul's): Just so we're clear, the problem is that the executive council is providing recommendations to committee members not by way of e-mail, press release or memorandum, but through a vehicle that amounts to an amendment. I would say that not only is it out of order, but it is entirely inappropriate for the Attorney General, of all ministers, to be providing such direction, a minister who is supposed to have independence, political and constitutional, within the executive council. He should have been the first person in cabinet to stand up and say, "This is outrageous," instead of being the perpetrator of this legislative juggernaut.

I would add my voice to those on the government side and on the third party side who say that this is out of order and that it be ruled out of order at the appropriate time.

Mr Kormos: I apologize to Mr McDonald, since I'm not his whip nor his House leader, for his not receiving a copy of the materials the government filed. I'd just admonish him that in view of the fact he's paid some $82,000 a year plus easily another four grand or five grand to be a vice-chair, it's important to do your homework before you come to committee. You're supposed to look at the papers your government has filed with the clerk. That's what a responsible member of the Legislature does, one who's really doing his work here. They do their homework and read the materials that are tabled with the clerk. They don't just come in here and expect to wing it for an hour, two hours or three hours.

If Mr McDonald wants to have my House leader whip assistant, Ms Charlton, assist him with that, I'm sure she would. She'd be more than pleased to, but I trust you have your own staff who could make sure you're properly equipped with the materials you need before you come into committee so that you don't have to embarrass yourself by saying, "I don't know what you're talking about. I never looked at the papers. I just came in here because they told me to come here." Please, Mr McDonald, you're making a lot of money here. You've got to do your homework.

Mr Frank Mazzilli (London-Fanshawe): This side is doing its homework. We were forced into this legislation because of withdrawal of services by lawyers in some parts of the province. We can talk about all kinds of different things here, but let's get back to the real issue.

This bill will give Legal Aid Ontario the tools it needs. Any recommendations that are made or not made by the Attorney General cannot be confirmed by this committee. I would just ask that we get on with what we're here to do, and that's to review the legislation.

Mr Bryant: That's why they pay him the big bucks.

The Chair: I would just mention that this, entitled Information for Committee, is not an amendment. It's not a motion. I understand these kinds of information have been distributed before.

I would ask the committee, shall we continue with debate of the legislation? Any comments or questions, and on which sections did you wish to comment?

Mr Bryant: Let's speak to section 1. Let me start by saying that we oppose this section. We oppose this amendment. We oppose this bill. Firstly, given that time may run out, I may have to make all my comments now. I want to hear from the justice critic from the third party as well, so I will say this.

The amendment to section 2 of course guts the entire provision and guts most of the bill, which might lead some to suggest that this entire exercise has been a legislative charade, that the Legislative Assembly of Ontario has been used in the midst of a protracted negotiation to try to achieve a result that it could not achieve through good-faith negotiations and, as such, is a total abuse of this Legislature.

Others will say, and I would agree with them, that this bill truly does write a blank cheque that strikes at the heart of our legal assistance system in Ontario by permitting the kind of legal finagling that the government is now trying to undertake with respect to interfering in essence with our legal assistance system when in fact it had previously been independently controlled to some extent by Legal Aid Ontario. Clearly, the message has been sent to everybody that if Legal Aid Ontario doesn't toe the line, another bill will be passed or another amendment will be made and this will in fact go back to the executive council and the independence of Legal Aid Ontario will eventually be compromised.

This has been sorry chapter in the history of the Ministry of the Attorney General. For a minister who is supposed to be independent, the caretaker of the Constitution, the caretaker of ensuring that justice is in fact administered in a fashion consistent with the principles of fundamental justice, it is outrageous that this has taken place. I cannot imagine a greater abuse of our legal assistance system than what has happened under the Attorney General in the past few weeks and months in this regard. I cannot imagine a more disastrous bill for the future of legal assistance. For that, we will not be supporting it.

1540

I also want to say that I would love to hear from the government. They can take advantage of this guillotine motion that's currently in place and not speak to this, but I would love to hear how it is that section 2, which is the bulk of this bill, would have been put into this bill and then taken out of this bill. Why was that done? Why was it put there in the first place? How is it that the Ministry of the Attorney General thought it appropriate to put this provision in place, to make these changes, only to reverse them a few weeks later? How can we trust the Attorney General to administer our legal aid system and our legal assistance programs in Ontario if we can have such dramatic, radical and inappropriate departures from the principles that this government actually set forth in its 1998 legislation that empowered Legal Aid Ontario with the independence it has and should continue to have?

With respect to the provision that remains, I say we don't need this bill to execute what the government says it wants to do. The government's pretending this is just about putting out a few fires and not about introducing radical changes to our legal assistance system, yet it is bringing in a clause that is just plain old redundant. If the Attorney General is of the view that the courts have ruled they can't do what they want to do, then I would have thought the Attorney General would appeal the decision instead of trying to immediately legislate, hear from a Court of Appeal before moving forward, as was done with respect to contingency fees. I think that was the right decision to make, and here it's the wrong decision that is being made.

I am very concerned that as a result of this, the Attorney General has permanently compromised his ability to fulfill his role as the superintendent of our legal assistance system, that he has severely compromised his capacity to make assessments as to the constitutional status of our present legal assistance system which, since 1999 in a Supreme Court of Canada decision, must meet a charter test, and that is clear.

We have had no opportunity to properly debate this bill. We've had no opportunity to hear, because of the guillotine motion that will implode and cause this debate to end in a matter of minutes, from the likes of Professor McCamus, who wrote the blueprint on legal assistance in Ontario, to hear from officials at Legal Aid Ontario, to hear from the people who are affected by this, to hear from the people who participate in the legal assistance system, both as providers and as consumers.

That is because the government is afraid to debate this matter. That is because the government wants to ram this

through and get powers it should not have. I'm not able to put questions to the ministry, the government, the experts or anybody. We are not able to hear from the bar, the bench, anybody. We're not able to hear from consumers and not able to hear from anybody. We weren't even able to hear from other members of the Legislature who might have wanted to speak to the bill. As a result, this bill is a legislative juggernaut being rammed down the throats of the people of Ontario in a fashion that I think ultimately will not serve the interests of Ontarians, our legal assistance system or the integrity of the office of the Attorney General.

Mr Kormos: At the outset, I should indicate and will that the New Democratic Party does not support this legislation. I believe we've made that quite clear in the House during debate around it. We voted against it in the Legislature, we're voting against it at committee today, we'll vote against it when it's reported back and we'll vote against it when it's called for third reading. That's number one.

Number two, I find it regrettable that once again this legislation, like so many other pieces of legislation, indeed darned near all of them coming from this government, was time-allocated. What that means for this bill, as Mr Bryant has already alluded to, is that it will have but 30 minutes of discussion here in committee, because at 4 o'clock, the magic hour as dictated by the time allocation motion, any discussion, any debate ceases, any opportunity to question the parliamentary assistant, Mr Mazzilli, about the bill is terminated. Mr Mazzilli may well find some comfort in that fact, but we in the opposition surely don't, because there are questions even about the amendments which warrant answers before this committee votes on them.

First of all, I want to say that I admire, both past tense and present tense, the huge number of extremely skilled and competent lawyers out there in the criminal bar and in the family bar who have been doing work on legal aid certificates for so many years now and have never expected to get rich by way of certificates. I also understand full well that this government's failure to adequately increase the hourly rate paid under a legal aid certificate, along with the crippling capping of billable hours particularly in family law, has done a disservice not only to those same lawyers but to their clients and to the justice system in both criminal and family areas.

Legal aid practitioners—lawyers who take on legal aid certificates—as I said, don't expect to get rich, but surely their bottom line has to be covered. It was incredible during debate on second reading to hear some of the stupid things coming out of the mouths of government backbenchers, especially during interjections, commenting on and suggesting that somehow a lawyer takes home the whole hourly rate—pockets it—and the government attempting to use that figure to paint a picture of greedy lawyers.

I know it's popular to bash lawyers, and we've seen more than a bit of it from this government. But when the cops are knocking on your door at 3 in the morning, I put to any government member here that you want the best lawyer, the most capable lawyer to answer your phone call. All of a sudden your attitude toward lawyers is changed dramatically when you are tragically caught in the turmoil of a family breakdown. Once again, you can mock lawyers, you can be abusive toward them, you can use the anti-lawyer sentiment as a hot button to push. But when there's a family breakdown and you need good legal counsel, you want a lawyer as quickly as possible and you want the best possible lawyer.

Thank goodness there are those good lawyers out there who deserve to be compensated, from the legal aid perspective, who at the very least deserve to have their overhead, which is substantial for any competent lawyer, covered if you are going to expect them to perform the invaluable role that they play. Similarly, I will add that with respect to the family legal aid certificates, the maintenance of that artificially low cap on the largest number of family law certificates does a disservice to the clientele those lawyers accommodate—most of them women, many of them children. That's the long and short of it; that's regrettable.

Unfortunately, the government chose not to have committee hearings. Unfortunately the government chose to ignore the hundreds of people, if not more, who wrote to the government. I know who they are, and so does Mr Bryant, because they copied their letters to Mr Bryant and to me. I want to thank those lawyers for taking the interest, along with a number of other people—not just lawyers but people in the legal aid offices, people in legal clinics, amongst others.

What they were calling for was committee hearings around this issue—in and of itself a modest proposal. Quite frankly, this would have been an ideal forum to investigate the adequacy of legal aid tariffs or legal aid hourly rates. It would have been an ideal forum to investigate the adequacy of the number of hours allowed per file in the area of family litigation.

Mr Bryant: And the government House leader agreed.

Mr Kormos: At one point, as Mr Bryant astutely points out, the government House leader thought that was a good idea too, until he got sent packing by Mr Young. Mr Young blew a gasket. Oil was hemorrhaging all over the place when it was revealed to Mr Young that the House leader, Mr Stockwell, had cut a deal on behalf of Mr Young.

Nobody has ever suggested that Solidarity Forever was a popular tune amongst the government caucus or cabinet, but certainly the rift between Mr Young and Mr Stockwell was revealed and the lack of confidence in Mr Stockwell—the lack of confidence as demonstrated by Mr Young—was apparent in Young kiboshing the deal that Stockwell had made.

That's unfortunate that Mr Young would show such disregard for a fellow cabinet minister, Mr Stockwell. But having said that, I can understand why sometimes Mr Stockwell's advice is hard to take. And clearly Mr Young didn't want to take Mr Stockwell's advice at that point.

1550

I also know that the lawyers who embarked on the effort to impress the government with the seriousness of the underfunding of legal aid did so with a great deal of thought, with a great deal of concern for the future of the legal aid system; no two ways about it. I know many of those lawyers. I attended many of the meetings they had, be it in Niagara or in the Hamilton area. I know Mr Bryant similarly spoke directly with those lawyers. He knows them professionally and knows them to be competent and committed people; people like Mark Evans down in Welland, who's an outstanding criminal lawyer, who will readily acknowledge that he was no longer able to accept legal aid certificates and wouldn't be able to accept them until the tariff was improved so that he could sustain his overhead, staff, resources and so on.

These lawyers did not undertake their so-called action lightly. I am not proud of the way Mr Young, the Attorney General, bashed them and misrepresented the fact at the press conference held by Mr Young to announce this legislation. I found that most regrettable and most unbecoming of an Attorney General. I also want to indicate that I've been through a few Attorneys General here at Queen's Park in darned near the last decade and a half, and I have never seen the Attorney General's office so politicized and so partisan as I have with Attorneys General in this government. I caution government members who may not find that an attractive observation to please look at some of the predecessor Attorneys General to their Mr Young and Mr Flaherty. Who was the one who preceded Mr Flaherty?

Mr Bryant: Harnick.

Mr Kormos: One Charlie Harnick, that's right. Thank you for reminding me.

During the tenure of those three successive Attorneys General, I've witnessed the Attorney General's office being used in a partisan way, the Attorney General approaching things in a very partisan manner. I've got to tell you, from the predecessor Attorneys General, be it with the New Democratic Party government or with the Liberal government that I was here with during the 1987-90 government, I did not witness that. In fact, I saw Attorneys General holding themselves above the fray and conducting themselves in a far less partisan manner. That's not to say that Mr Scott wasn't a strong Liberal or that Ms Boyd or Mr Hampton weren't strong New Democrats, but there was a role for that partisan activity and then there was a role for them performing their job as Attorney General, and they removed that from the political debate. They really did. There are no two ways about it.

I find that a regrettable practice that we're witnessing here with respect to Attorneys General. I witnessed it when I saw David Young at his press conference go after the lawyers, talking about threatening tactics with clients when in fact the letter he was referring to that went out to lawyers merely told lawyers, or asked lawyers, to please canvass with their clients whether or not they have their own means or resources to pay a private retainer. Quite frankly, the legal aid system expects that of a person accepting a legal aid certificate. Lawyers are called upon to be part gatekeeper for the legal aid system, and a lawyer who accepted a legal aid certificate from a client who had their own means would himself or herself not be conducting themselves entirely appropriately. Lawyers are called upon to in effect determine that the legal aid certificate wasn't wrongly issued, and I don't say it by way of directive but certainly by way of practice.

We are opposed to this legislation. We believe the issue is one that has to be resolved in a process of candid negotiation. I would love to see an all-party committee review this matter, hear submissions from lawyers, judges, any number of constituencies out there. I hope lawyers haven't been taken to the cleaners. Part of me thinks the bar has been hoodwinked by the promise to address tariff increases. This is one of the few times I hope I'm wrong and can be proven wrong, but part of me says no, I don't think I am. I think lawyers got hoodwinked. So be it. It's not for me to judge their conduct or to tell them how to conduct themselves, but they certainly demonstrated the best of good faith by indicating that they were willing to move along and let the matter of tariff be addressed down the road. I hope they haven't made a serious error in doing that.

We do not support this legislation.

I pose a direct question to Mr Mazzilli, and that is with respect to his amendment contained on page 1—Mr Mazzilli, take a look, please. Mr Mazzilli is the parliamentary assistant. His income in around $82,000 a year plus another 12 grand or 13 grand or so by virtue of being parliamentary assistant.

Mr Mazzilli, you talk about "adding, after 'disadvantaged communities' ... 'that need to achieve an effective balance among the different methods of providing legal aid services.'" I hope you will advise us what the intent and purpose of this amendment is.

Similarly, I hope you will explain how, when you enter into agreements with lawyers, groups of lawyers or law firms for the provision of legal aid services, you're going to avoid dump-trucking, because at the end of the day, when you've got bidding on this sort of thing, you tend to get the matter bid down to the lowest bidder, and the fastest way to resolve any number of cases or files is to cop a plea, plead them in.

I want to know how you're going to avoid dump-trucking. In other words explain to us, Mr Mazzilli, please, the monitoring process that will be in place. Also, and this was raised in the Legislature, explain to us how you are going to avoid political cronyism, like the federal Tories did with their drug prosecutors, federal prosecutors, and then the federal Liberals did with their drug prosecutors, where mere cronyism was responsible for some of the appointments. That's not to say that they were all without merit.

Mr Mazzilli: Some real good ones, too.

Mr Kormos: Well, no, it's not to say they were all without merit, but there were some dogs as well. Mark my words, they warranted collars and leashes and some

of them still do. Explain how this won't result in political cronyism, political patronage. I now defer to Mr Mazzilli to respond to those two very specific questions.

The Chair: I'll mention there are about two minutes remaining for Mr Hardeman and Mr Mazzilli. I'll leave that with you.

Mr Mazzilli: I'll take a moment to compliment the Attorney General on a job well done. Certainly what he was faced with in this province was a situation where if cases were not heard—those two parties can remember the Askov decision. You can remember that; you were in power. Serious cases of rape, of crimes against persons were thrown out of court because people had no legal representation or cases could not be heard on time.

Our Attorney General has taken steps to avoid that. He's done so in a way that is a long-standing practice. Legal aid lawyers can continue to accept certificates. If your parties didn't give lawyers a raise for 15 years, perhaps you can explain that to the lawyers, and it's not up to the Attorney General to do that.

All this bill does is give Legal Aid Ontario some flexibility. As Mr Kormos stated—it doesn't matter what amendment—they're opposed to this legislation. They've said that clearly—and Mr Bryant. Notably, of course you're lawyers; I understand that.

The other thing is that there is a long-standing practice in this country, as you've heard, of federal prosecutors—the shipload of drugs comes in from who knows where. Guess what? It's a private prosecutor hired by the federal government. In my time I've known those people to do a very good job. They're very dedicated, and I'd like to know their rates compared to—

Mr Kormos: What is that ship doing down in the Bahamas?

Mr Mazzilli: That ship is going to be sunk.

The Chair: It now stands at 4 o'clock, and as per the time allocation motion passed by the House on Monday, October 21, 2002:

"That the standing committee on justice and social policy shall be authorized to meet for one day at its next scheduled meeting time for the purpose of" clause-by-clause "consideration of the bill; and

"That, no later than 4 pm on that day, those amendments which have not yet been moved shall be deemed to have been moved, and the Chair of the committee shall interrupt the proceedings and shall, without further debate or amendment, put every question necessary to dispose of all remaining sections of the bill and any amendments thereto. The committee shall be authorized to meet beyond its normal hour of adjournment until completion of clause-by-clause consideration. Any division required shall be deferred until all remaining questions have been put and taken in succession, with one 20-minute waiting period allowed pursuant to standing order 127(a); and

"That the committee shall report the bill to the House not later than the first sessional day that reports from committees may be received following the completion of clause-by-clause consideration. In the event that the committee fails to report the bill on that day, the bill shall be deemed to be passed by the committee and shall be deemed to be reported and received by the House."

As it is 4 pm, I shall put the questions. We will commence with section 1. I understand there is a government amendment to section 1.

1600

Mr Kormos: I'm not about to move it.

Mr Hardeman: It doesn't need to be moved. I think the Chairman just read that it was deemed to have been moved after 4 o'clock.

The Chair: Thank you for that information.

Does the amendment carry?

Mr Kormos: Whoa, whoa. Which amendment? You've got to identify the amendments. There are two amendments tabled.

The Chair: I identified section 1. There's an amendment—

Mr Kormos: No, page number is the method, but that's OK. Go ahead, Chair.

The Chair: This is found on page 1. Does everyone have page 1? Members, on page 1 of your package of amendments there is a government amendment to section 1 of the bill.

Does the amendment carry? Carried.

Does section 1, as amended, carry?

Mr Kormos: No. Recorded vote.

The Chair: As I had indicated, our direction from the House defers any recorded votes. That means we would defer that.

We now go to section 2.

Shall section 2 of the bill carry?

Interjections.

The Chair: Carried.

Mr Hardeman: I said no.

The Chair: Oh, I'm sorry. I'm getting confused here.

Mr Kormos: Whoa, Chair—point of order. This is serious. The government screwed up. Remember what I said about not being able to organize a drunk-up in a brewery? They neglected to follow their own directions.

Mr Hardeman: It was the Chair. I said no.

The Chair: It was the Chair who made that mistake.

Mr Kormos: But your colleagues are all saying yeah.

The Chair: Shall section 2 of the bill carry?

Mr Bryant: On a point of order, Mr Chair: You can't have a rematch on a vote. You just said that it carried, and if it carried, it carried. I understand you may want to change your mind.

The Chair: As I said, as Chair I may have misspoken and I've asked the question again.

Mr Bryant: All right.

The Chair: Please bear with me.

Mr Hardeman: On a point of order, Mr Chair: I would request that we have a recorded vote on section 2 to clarify, to make sure we all understand how it was voted.

Mr Kormos: It's too late now.

The Chair: I understand it is too late.

If we turn to section 3, shall section 3 of the bill carry?

Mr Kormos: No. Recorded vote.
The Chair: We'll defer that as well.
Shall section 4, the short title of the bill, carry?
Mr Kormos: No. Recorded vote.
The Chair: Shall the long title of the bill carry?
Mr Kormos: No. Recorded vote.
The Chair: That's deferred.
Mr Kormos: Before we do that, we'd better have the deferred votes, before we have the report back to the House—do you know what I'm saying?
The Chair: I know there is a certain point where we no longer defer votes.
Mr Kormos: Yes. The report back to the House is the wrap-up. So go back and do the deferred votes now, so that we have something as voted upon to report back to the House. Otherwise it becomes nonsensical.
The Chair: That would leave the two remaining questions open.
I would now ask the committee to return to section 1, which contains that amendment, and I would pose the question. Does section 1, as amended carry?
Mr Kormos: No. We asked for a recorded vote—all in favour and then all opposed—so we can count the names.
The Chair: OK.

Ayes

Beaubien, Hardeman, Mazzilli, McDonald.

Nays

Bryant, Kormos.

The Chair: I declare that section carried.
We now skip down to section 3. This is a recorded vote.
Shall section 3 of the bill—
Mr Kormos: No, "all in favour." We already did that.
The Chair: I think I should pose the question again just to clarify.
Mr Kormos: So they can change their minds again?
The Chair: Shall section 3 of the bill carry?

Ayes

Beaubien, Hardeman, Mazzilli, McDonald.

Nays

Bryant, Kormos.

The Chair: Carried.
Shall section 4, the short title of the bill, carry?

Ayes

Beaubien, Hardeman, Mazzilli, McDonald.

Nays

Bryant, Kormos.

The Chair: Carried.
Shall the long title of the bill carry?

Ayes

Beaubien, Hardeman, Mazzilli, McDonald.

Nays

Bryant, Kormos.

The Chair: I declare that carried.
Shall the bill, as amended, carry?
Mr Kormos: No. Recorded vote, please.
The Chair: No recorded vote on this one. Shall the bill, as amended, carry?
Mr Kormos: I said no. Recorded vote. I've got to say no or else it would be approved. You couldn't ask for a recorded vote if I agreed.
The Chair: OK. We'll have a recorded vote on this one.

Ayes

Beaubien, Hardeman, Mazzilli, McDonald.

Nays

Bryant, Kormos.

The Chair: That's carried.
Shall I report the bill, as amended, to the House?
Mr Kormos: No. Recorded vote, please.

Ayes

Beaubien, Hardeman, Mazzilli, McDonald.

Nays

Bryant, Kormos.

The Chair: I shall report the bill to the House.
The committee is adjourned. Thank you.
The committee adjourned at 1608.

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